

**LOCAL OPTION SALES AND USE TAXES  
FOR TRANSPORTATION ACT**

2010 GENERAL SESSION

STATE OF UTAH

---

---

**LONG TITLE**

**General Description:**

This bill amends the Sales and Use Tax Act to address local option sales and use taxes for transportation.

**Highlighted Provisions:**

This bill:

- ▶ enacts the Local Option Sales and Use Taxes for Transportation Act;
- ▶ defines terms;
- ▶ repeals certain local option sales and use taxes for transportation and enacts certain local option sales and use taxes for transportation;
- ▶ addresses the authority to impose a local option sales and use tax for transportation;
- ▶ addresses the transactions that may be subject to taxation and the tax rates at which those transactions may be subject to taxation;
- ▶ addresses the determination of the location of a transaction for sales and use tax purposes;
- ▶ addresses the administration, collection, and enforcement of a local option sales and use tax for transportation;
- ▶ addresses the transfer or transmission of revenues collected from a local option sales and use tax for transportation;
- ▶ addresses the State Tax Commission's authority to retain a percentage of revenues collected from a local option sales and use tax for transportation, the deposit of those revenues into the Sales and Use Tax Administrative Fees Account, and the expenditure of those revenues;
- ▶ addresses legislative body and voter approval requirements for a local option sales and use tax for transportation;
- ▶ addresses the enactment, repeal, or change in the rate of a local option sales and use

- 32 tax for transportation;
- 33 ▶ addresses a seller's or certified service provider's failure to collect a local option
- 34 sales and use tax for transportation if the seller or certified service provider relies on
- 35 certain on State Tax Commission information;
- 36 ▶ addresses a seller's or certified service provider's failure to collect a local option
- 37 sales and use tax for transportation if the seller or certified service provider relies on
- 38 certain software certified by the State Tax Commission;
- 39 ▶ addresses the circumstances under which a purchaser is relieved from a penalty or is
- 40 not liable for a tax or interest;
- 41 ▶ addresses the imposition of local option sales and use taxes for transportation
- 42 including the purposes for which revenues collected from the taxes may be
- 43 expended; and
- 44 ▶ makes technical and conforming changes.

45 **Monies Appropriated in this Bill:**

46 None

47 **Other Special Clauses:**

48 This bill takes effect on July 1, 2010.

49 **Utah Code Sections Affected:**

50 AMENDS:

- 51 **10-8-86**, as last amended by Laws of Utah 1988, Chapter 213
- 52 **17-50-322**, as enacted by Laws of Utah 2006, Fourth Special Session, Chapter 1
- 53 **17B-1-412**, as renumbered and amended by Laws of Utah 2007, Chapter 329
- 54 **59-12-102**, as last amended by Laws of Utah 2009, Chapters 203 and 314
- 55 **59-12-211**, as enacted by Laws of Utah 2008, Chapter 384
- 56 **59-12-602**, as last amended by Laws of Utah 2008, Chapter 286
- 57 **59-12-2003**, as last amended by Laws of Utah 2009, Chapter 385
- 58 **63B-11-501**, as last amended by Laws of Utah 2003, Chapter 335
- 59 **63B-11-502**, as last amended by Laws of Utah 2008, Chapter 224
- 60 **72-2-117.5**, as last amended by Laws of Utah 2009, Chapters 244, 344, and 374
- 61 **72-2-121**, as last amended by Laws of Utah 2009, Chapter 275
- 62 **72-2-121.1**, as last amended by Laws of Utah 2007, Chapter 10

63           **72-2-121.2**, as last amended by Laws of Utah 2009, Chapter 244

64           **72-10-215**, as enacted by Laws of Utah 2008, Chapter 286

65   ENACTS:

66           **59-12-2201**, Utah Code Annotated 1953

67           **59-12-2202**, Utah Code Annotated 1953

68           **59-12-2203**, Utah Code Annotated 1953

69           **59-12-2204**, Utah Code Annotated 1953

70           **59-12-2205**, Utah Code Annotated 1953

71           **59-12-2206**, Utah Code Annotated 1953

72           **59-12-2207**, Utah Code Annotated 1953

73           **59-12-2208**, Utah Code Annotated 1953

74           **59-12-2209**, Utah Code Annotated 1953

75           **59-12-2210**, Utah Code Annotated 1953

76           **59-12-2211**, Utah Code Annotated 1953

77           **59-12-2212**, Utah Code Annotated 1953

78           **59-12-2213**, Utah Code Annotated 1953

79           **59-12-2214**, Utah Code Annotated 1953

80           **59-12-2215**, Utah Code Annotated 1953

81           **59-12-2216**, Utah Code Annotated 1953

82           **59-12-2217**, Utah Code Annotated 1953

83   RENUMBERS AND AMENDS:

84           **59-12-2218**, (Renumbered from 59-12-1903, as last amended by Laws of Utah 2009,

85           Chapter 244)

86   REPEALS:

87           **59-12-501**, as last amended by Laws of Utah 2008, Chapters 7 and 384

88           **59-12-502**, as last amended by Laws of Utah 2009, Chapter 244

89           **59-12-503**, as enacted by Laws of Utah 1997, Chapter 131

90           **59-12-504**, as last amended by Laws of Utah 2008, Chapters 382 and 384

91           **59-12-506**, as last amended by Laws of Utah 2009, Chapter 203

92           **59-12-507**, as enacted by Laws of Utah 2008, Chapter 384

93           **59-12-508**, as enacted by Laws of Utah 2008, Chapter 384  
94           **59-12-1001**, as last amended by Laws of Utah 2009, Chapter 388  
95           **59-12-1002**, as last amended by Laws of Utah 2008, Chapter 384  
96           **59-12-1004**, as last amended by Laws of Utah 2009, Chapter 203  
97           **59-12-1005**, as enacted by Laws of Utah 2008, Chapter 384  
98           **59-12-1006**, as enacted by Laws of Utah 2008, Chapter 384  
99           **59-12-1501**, as enacted by Laws of Utah 2003, Chapter 282  
100          **59-12-1502**, as last amended by Laws of Utah 2007, Chapters 10 and 329  
101          **59-12-1503**, as last amended by Laws of Utah 2008, Chapters 382 and 384  
102          **59-12-1505**, as last amended by Laws of Utah 2009, Chapter 203  
103          **59-12-1506**, as enacted by Laws of Utah 2008, Chapter 384  
104          **59-12-1507**, as enacted by Laws of Utah 2008, Chapter 384  
105          **59-12-1701**, as enacted by Laws of Utah 2006, Fourth Special Session, Chapter 1  
106          **59-12-1702**, as enacted by Laws of Utah 2006, Fourth Special Session, Chapter 1  
107          **59-12-1703**, as last amended by Laws of Utah 2008, Chapters 382 and 384  
108          **59-12-1704**, as enacted by Laws of Utah 2006, Fourth Special Session, Chapter 1  
109          **59-12-1705**, as enacted by Laws of Utah 2006, Fourth Special Session, Chapter 1  
110          **59-12-1706**, as last amended by Laws of Utah 2009, Chapter 203  
111          **59-12-1707**, as enacted by Laws of Utah 2008, Chapter 384  
112          **59-12-1708**, as enacted by Laws of Utah 2008, Chapter 384  
113          **59-12-1901**, as last amended by Laws of Utah 2009, Chapter 244  
114          **59-12-1902**, as last amended by Laws of Utah 2009, Chapter 244  
115          **59-12-1904**, as last amended by Laws of Utah 2009, Chapter 203  
116          **59-12-1905**, as enacted by Laws of Utah 2008, Chapter 286  
117          **59-12-1906**, as enacted by Laws of Utah 2008, Chapter 286

118          

---

---

*Be it enacted by the Legislature of the state of Utah:*  
119

120           Section 1. Section **10-8-86** is amended to read:

121           **10-8-86. Organization, operation, maintenance, and funding of system for public**  
122   **transit authorized.**

123           (1) The governing body of any municipality may adopt a resolution allowing the

municipality to organize, operate, and maintain a ~~[public transportation]~~ system for public transit within ~~[such]~~ the municipality and to impose a sales and a use tax to fund the system for public transit as provided in Section ~~[59-12-501]~~ 59-12-2213.

(2) The authority granted municipalities by this section to organize, operate, and maintain a ~~[public transportation]~~ system for public transit is inapplicable to a municipality located in or within five highway or roadway miles of the boundary of an existing transit district, unless the existing transit district consents to the organization and operation of ~~[such a]~~ the system for public transit by the municipality.

Section 2. Section **17-50-322** is amended to read:

**17-50-322. County funding for a fixed guideway.**

(1) For purposes of this section, "fixed guideway" means a public transit facility that uses and occupies:

- (a) rail for the use of public transit; or
- (b) a separate right-of-way for the use of public transit.

(2) (a) Except as provided in Subsection (2)(b), a county legislative body may not levy a property tax or expend revenues from uniform fees or any tax or fee imposed in lieu of a property tax, to purchase, erect, repair, rebuild, maintain, or otherwise fund a fixed guideway.

(b) Subsection (2)(a) does not apply to a property tax levy imposed by a county for the purpose of paying for bonds if:

(i) before January 1, 2007, the bonds were issued or approved by voters for issuance to fund a fixed guideway; and

(ii) the county does not impose a sales and use tax authorized by Section ~~[59-12-1703]~~ 59-12-2217.

Section 3. Section **17B-1-412** is amended to read:

**17B-1-412. Protests -- Election.**

(1) (a) An owner of private real property located within or a registered voter residing within an area proposed to be annexed may protest an annexation by filing a written protest with the board of trustees of the proposed annexing local district, except:

- (i) as provided in Section 17B-1-413;
- (ii) for an annexation under Section 17B-1-415; and
- (iii) for an annexation proposed by a local district that receives sales and use tax funds

from the counties, cities, and towns within the local district that impose a sales and use tax under Section ~~[59-12-501]~~ 59-12-2213.

(b) A protest of a boundary adjustment is not governed by this section but is governed by Section 17B-1-417.

(2) Each protest under Subsection (1)(a) shall be filed within 30 days after the date of the public hearing under Section 17B-1-409.

(3) (a) Except as provided in Subsection (4), the local district shall hold an election on the proposed annexation if:

(i) timely protests are filed by:

(A) the owners of private real property that:

(I) is located within the area proposed to be annexed;

(II) covers at least 10% of the total private land area within the entire area proposed to be annexed and within each applicable area; and

(III) is equal in assessed value to at least 10% of the assessed value of all private real property within the entire area proposed to be annexed and within each applicable area; or

(B) registered voters residing within the entire area proposed to be annexed and within each applicable area equal in number to at least 10% of the number of votes cast within the entire area proposed for annexation and within each applicable area, respectively, for the office of governor at the last regular general election before the filing of the petition; or

(ii) the proposed annexing local district is one that receives sales and use tax funds from the counties, cities, and towns within the local district that impose a sales and use tax under Section ~~[59-12-501]~~ 59-12-2213.

(b) (i) At each election held under Subsection (3)(a)(ii), the ballot question shall be phrased to indicate that a voter's casting a vote for or against the annexation includes also a vote for or against the imposition of the sales and use tax as provided in Section ~~[59-12-501]~~ 59-12-2213.

(ii) Except as otherwise provided in this part, each election under Subsection (3)(a) shall be governed by Title 20A, Election Code.

(c) If a majority of registered voters residing within the area proposed to be annexed and voting on the proposal vote:

(i) in favor of annexation, the board of trustees shall, subject to Subsections

17B-1-414(1)(b), (2), and (3), complete the annexation by adopting a resolution approving annexation of the area; or

(ii) against annexation, the annexation process is terminated, the board may not adopt a resolution approving annexation of the area, and the area proposed to be annexed may not for two years be the subject of an effort under this part to annex to the same local district.

(4) If sufficient protests are filed under this section to require an election for a proposed annexation to which the protest provisions of this section are applicable, a board of trustees may, notwithstanding Subsection (3), adopt a resolution rejecting the annexation and terminating the annexation process without holding an election.

Section 4. Section **59-12-102** is amended to read:

**59-12-102. Definitions.**

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal

217 Communications Commission.

218 (b) "900 service" does not include a charge for:

219 (i) a collection service a seller of a telecommunications service provides to a  
220 subscriber; or

221 (ii) the following a subscriber sells to the subscriber's customer:

222 (A) a product; or

223 (B) a service.

224 (3) (a) "Admission or user fees" includes season passes.

225 (b) "Admission or user fees" does not include annual membership dues to private  
226 organizations.

227 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on  
228 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax  
229 Agreement after November 12, 2002.

230 (5) "Agreement combined tax rate" means the sum of the tax rates:

231 (a) listed under Subsection (6); and

232 (b) that are imposed within a local taxing jurisdiction.

233 (6) "Agreement sales and use tax" means a tax imposed under:

234 (a) Subsection 59-12-103(2)(a)(i)(A);

235 (b) Subsection 59-12-103(2)(b)(i);

236 (c) Subsection 59-12-103(2)(c)(i);

237 (d) Subsection 59-12-103(2)(d)(i)(A)(I);

238 (e) Section 59-12-204;

239 (f) Section 59-12-401;

240 (g) Section 59-12-402;

241 [~~(h)~~ Section 59-12-501;]

242 [~~(i)~~ Section 59-12-502;]

243 [~~(j)~~] (h) Section 59-12-703;

244 [~~(k)~~] (i) Section 59-12-802;

245 [~~(l)~~] (j) Section 59-12-804;

246 [~~(m)~~ Section 59-12-1001;]

247 [~~(n)~~] (k) Section 59-12-1102;

248 ~~[(o)]~~ (l) Section 59-12-1302;  
249 ~~[(p)]~~ (m) Section 59-12-1402;  
250 ~~[(q)]~~ ~~Section 59-12-1503;~~  
251 ~~[(r)]~~ ~~Section 59-12-1703;~~  
252 ~~[(s)]~~ (n) Section 59-12-1802;  
253 ~~[(t)]~~ ~~Section 59-12-1903;~~  
254 ~~[(u)]~~ (o) Section 59-12-2003; ~~[or]~~  
255 ~~[(v)]~~ (p) Section 59-12-2103[-];  
256 (q) Section 59-12-2213;  
257 (r) Section 59-12-2214;  
258 (s) Section 59-12-2215;  
259 (t) Section 59-12-2216;  
260 (u) Section 59-12-2217; or  
261 (v) Section 59-12-2218.  
262 (7) "Aircraft" is as defined in Section 72-10-102.  
263 (8) "Alcoholic beverage" means a beverage that:  
264 (a) is suitable for human consumption; and  
265 (b) contains .5% or more alcohol by volume.  
266 (9) (a) "Ancillary service" means a service associated with, or incidental to, the  
267 provision of telecommunications service.  
268 (b) "Ancillary service" includes:  
269 (i) a conference bridging service;  
270 (ii) a detailed communications billing service;  
271 (iii) directory assistance;  
272 (iv) a vertical service; or  
273 (v) a voice mail service.  
274 (10) "Area agency on aging" is as defined in Section 62A-3-101.  
275 (11) "Assisted amusement device" means an amusement device, skill device, or ride  
276 device that is started and stopped by an individual:  
277 (a) who is not the purchaser or renter of the right to use or operate the amusement  
278 device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(12) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(13) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, the holder of a certificate issued by the United States Surface Transportation Board.

(14) (a) Except as provided in Subsection (14)(b), "biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) methane produced:

(I) at landfills; or

(II) as a byproduct of the treatment of wastewater residuals;

(D) aquatic plants; and

(E) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor;

(ii) treated woods; or

- 310 (iii) biomass from municipal solid waste other than methane produced:  
311 (A) at landfills; or  
312 (B) as a byproduct of the treatment of wastewater residuals.
- 313 (15) (a) "Bundled transaction" means the sale of two or more items of tangible personal  
314 property, products, or services if the tangible personal property, products, or services are:  
315 (i) distinct and identifiable; and  
316 (ii) sold for one nonitemized price.
- 317 (b) "Bundled transaction" does not include:  
318 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on  
319 the basis of the selection by the purchaser of the items of tangible personal property included in  
320 the transaction;  
321 (ii) the sale of real property;  
322 (iii) the sale of services to real property;  
323 (iv) the retail sale of tangible personal property and a service if:  
324 (A) the tangible personal property:  
325 (I) is essential to the use of the service; and  
326 (II) is provided exclusively in connection with the service; and  
327 (B) the service is the true object of the transaction;  
328 (v) the retail sale of two services if:  
329 (A) one service is provided that is essential to the use or receipt of a second service;  
330 (B) the first service is provided exclusively in connection with the second service; and  
331 (C) the second service is the true object of the transaction;  
332 (vi) a transaction that includes tangible personal property or a product subject to  
333 taxation under this chapter and tangible personal property or a product that is not subject to  
334 taxation under this chapter if the:  
335 (A) seller's purchase price of the tangible personal property or product subject to  
336 taxation under this chapter is de minimis; or  
337 (B) seller's sales price of the tangible personal property or product subject to taxation  
338 under this chapter is de minimis; and  
339 (vii) the retail sale of tangible personal property that is not subject to taxation under  
340 this chapter and tangible personal property that is subject to taxation under this chapter if:

341 (A) that retail sale includes:  
342 (I) food and food ingredients;  
343 (II) a drug;  
344 (III) durable medical equipment;  
345 (IV) mobility enhancing equipment;  
346 (V) an over-the-counter drug;  
347 (VI) a prosthetic device; or  
348 (VII) a medical supply; and  
349 (B) subject to Subsection (15)(f):  
350 (I) the seller's purchase price of the tangible personal property subject to taxation under  
351 this chapter is 50% or less of the seller's total purchase price of that retail sale; or  
352 (II) the seller's sales price of the tangible personal property subject to taxation under  
353 this chapter is 50% or less of the seller's total sales price of that retail sale.  
354 (c) (i) For purposes of Subsection (15)(a)(i), tangible personal property, a product, or a  
355 service that is distinct and identifiable does not include:  
356 (A) packaging that:  
357 (I) accompanies the sale of the tangible personal property, product, or service; and  
358 (II) is incidental or immaterial to the sale of the tangible personal property, product, or  
359 service;  
360 (B) tangible personal property, a product, or a service provided free of charge with the  
361 purchase of another item of tangible personal property, a product, or a service; or  
362 (C) an item of tangible personal property, a product, or a service included in the  
363 definition of "purchase price."  
364 (ii) For purposes of Subsection (15)(c)(i)(B), an item of tangible personal property, a  
365 product, or a service is provided free of charge with the purchase of another item of tangible  
366 personal property, a product, or a service if the sales price of the purchased item of tangible  
367 personal property, product, or service does not vary depending on the inclusion of the tangible  
368 personal property, product, or service provided free of charge.  
369 (d) (i) For purposes of Subsection (15)(a)(ii), property sold for one nonitemized price  
370 does not include a price that is separately identified by product on the following, regardless of  
371 whether the following is in paper format or electronic format:

- 372 (A) a binding sales document; or  
373 (B) another supporting sales-related document that is available to a purchaser.  
374 (ii) For purposes of Subsection (15)(d)(i), a binding sales document or another  
375 supporting sales-related document that is available to a purchaser includes:  
376 (A) a bill of sale;  
377 (B) a contract;  
378 (C) an invoice;  
379 (D) a lease agreement;  
380 (E) a periodic notice of rates and services;  
381 (F) a price list;  
382 (G) a rate card;  
383 (H) a receipt; or  
384 (I) a service agreement.  
385 (e) (i) For purposes of Subsection (15)(b)(vi), the sales price of tangible personal  
386 property or a product subject to taxation under this chapter is de minimis if:  
387 (A) the seller's purchase price of the tangible personal property or product is 10% or  
388 less of the seller's total purchase price of the bundled transaction; or  
389 (B) the seller's sales price of the tangible personal property or product is 10% or less of  
390 the seller's total sales price of the bundled transaction.  
391 (ii) For purposes of Subsection (15)(b)(vi), a seller:  
392 (A) shall use the seller's purchase price or the seller's sales price to determine if the  
393 purchase price or sales price of the tangible personal property or product subject to taxation  
394 under this chapter is de minimis; and  
395 (B) may not use a combination of the seller's purchase price and the seller's sales price  
396 to determine if the purchase price or sales price of the tangible personal property or product  
397 subject to taxation under this chapter is de minimis.  
398 (iii) For purposes of Subsection (15)(b)(vi), a seller shall use the full term of a service  
399 contract to determine if the sales price of tangible personal property or a product is de minimis.  
400 (f) For purposes of Subsection (15)(b)(vii)(B), a seller may not use a combination of  
401 the seller's purchase price and the seller's sales price to determine if tangible personal property  
402 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales

403 price of that retail sale.

404 (16) "Certified automated system" means software certified by the governing board of  
405 the agreement that:

406 (a) calculates the agreement sales and use tax imposed within a local taxing  
407 jurisdiction:

408 (i) on a transaction; and

409 (ii) in the states that are members of the agreement;

410 (b) determines the amount of agreement sales and use tax to remit to a state that is a  
411 member of the agreement; and

412 (c) maintains a record of the transaction described in Subsection (16)(a)(i).

413 (17) "Certified service provider" means an agent certified:

414 (a) by the governing board of the agreement; and

415 (b) to perform all of a seller's sales and use tax functions for an agreement sales and  
416 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's  
417 own purchases.

418 (18) (a) Subject to Subsection (18)(b), "clothing" means all human wearing apparel  
419 suitable for general use.

420 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
421 commission shall make rules:

422 (i) listing the items that constitute "clothing"; and

423 (ii) that are consistent with the list of items that constitute "clothing" under the  
424 agreement.

425 (19) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

426 (20) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other  
427 fuels that does not constitute industrial use under Subsection (46) or residential use under  
428 Subsection (91).

429 (21) (a) "Common carrier" means a person engaged in or transacting the business of  
430 transporting passengers, freight, merchandise, or other property for hire within this state.

431 (b) (i) "Common carrier" does not include a person who, at the time the person is  
432 traveling to or from that person's place of employment, transports a passenger to or from the  
433 passenger's place of employment.

(ii) For purposes of Subsection (21)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(22) "Component part" includes:

- (a) poultry, dairy, and other livestock feed, and their components;
- (b) baling ties and twine used in the baling of hay and straw;
- (c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and
- (d) feed, seeds, and seedlings.

(23) "Computer" means an electronic device that accepts information:

- (a) (i) in digital form; or
- (ii) in a form similar to digital form; and
- (b) manipulates that information for a result based on a sequence of instructions.

(24) "Computer software" means a set of coded instructions designed to cause:

- (a) a computer to perform a task; or
- (b) automatic data processing equipment to perform a task.

(25) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" includes providing a telephone number as part of the ancillary service described in Subsection (25)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (25)(a).

(26) "Construction materials" means any tangible personal property that will be converted into real property.

(27) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(28) (a) "Delivery charge" means a charge:

- (i) by a seller of:
  - (A) tangible personal property;
  - (B) a product transferred electronically; or

- 465 (C) services; and
- 466 (ii) for preparation and delivery of the tangible personal property, product transferred
- 467 electronically, or services described in Subsection (28)(a)(i) to a location designated by the
- 468 purchaser.
- 469 (b) "Delivery charge" includes a charge for the following:
- 470 (i) transportation;
- 471 (ii) shipping;
- 472 (iii) postage;
- 473 (iv) handling;
- 474 (v) crating; or
- 475 (vi) packing.
- 476 (29) "Detailed telecommunications billing service" means an ancillary service of
- 477 separately stating information pertaining to individual calls on a customer's billing statement.
- 478 (30) "Dietary supplement" means a product, other than tobacco, that:
- 479 (a) is intended to supplement the diet;
- 480 (b) contains one or more of the following dietary ingredients:
- 481 (i) a vitamin;
- 482 (ii) a mineral;
- 483 (iii) an herb or other botanical;
- 484 (iv) an amino acid;
- 485 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 486 dietary intake; or
- 487 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 488 described in Subsections (30)(b)(i) through (v);
- 489 (c) (i) except as provided in Subsection (30)(c)(ii), is intended for ingestion in:
- 490 (A) tablet form;
- 491 (B) capsule form;
- 492 (C) powder form;
- 493 (D) softgel form;
- 494 (E) gelcap form; or
- 495 (F) liquid form; or

(ii) notwithstanding Subsection (30)(c)(i), if the product is not intended for ingestion in a form described in Subsections (30)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the "Supplemental Facts" box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

(31) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

(32) "Directory assistance" means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

(33) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26-21-2;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (33)(a)(ii)(B); or

- 527 (D) a person similar to a person described in Subsections (33)(a)(ii)(A) through (C).  
528 (b) "Disposable home medical equipment or supplies" does not include:  
529 (i) a drug;  
530 (ii) durable medical equipment;  
531 (iii) a hearing aid;  
532 (iv) a hearing aid accessory;  
533 (v) mobility enhancing equipment; or  
534 (vi) tangible personal property used to correct impaired vision, including:  
535 (A) eyeglasses; or  
536 (B) contact lenses.  
537 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
538 commission may by rule define what constitutes medical equipment or supplies.  
539 (34) (a) "Drug" means a compound, substance, or preparation, or a component of a  
540 compound, substance, or preparation that is:  
541 (i) recognized in:  
542 (A) the official United States Pharmacopoeia;  
543 (B) the official Homeopathic Pharmacopoeia of the United States;  
544 (C) the official National Formulary; or  
545 (D) a supplement to a publication listed in Subsections (34)(a)(i)(A) through (C);  
546 (ii) intended for use in the:  
547 (A) diagnosis of disease;  
548 (B) cure of disease;  
549 (C) mitigation of disease;  
550 (D) treatment of disease; or  
551 (E) prevention of disease; or  
552 (iii) intended to affect:  
553 (A) the structure of the body; or  
554 (B) any function of the body.  
555 (b) "Drug" does not include:  
556 (i) food and food ingredients;  
557 (ii) a dietary supplement;

- 558 (iii) an alcoholic beverage; or  
559 (iv) a prosthetic device.
- 560 (35) (a) Except as provided in Subsection (35)(c), "durable medical equipment" means  
561 equipment that:
- 562 (i) can withstand repeated use;  
563 (ii) is primarily and customarily used to serve a medical purpose;  
564 (iii) generally is not useful to a person in the absence of illness or injury; and  
565 (iv) is not worn in or on the body.
- 566 (b) "Durable medical equipment" includes parts used in the repair or replacement of the  
567 equipment described in Subsection (35)(a).
- 568 (c) Notwithstanding Subsection (35)(a), "durable medical equipment" does not include  
569 mobility enhancing equipment.
- 570 (36) "Electronic" means:
- 571 (a) relating to technology; and  
572 (b) having:
- 573 (i) electrical capabilities;  
574 (ii) digital capabilities;  
575 (iii) magnetic capabilities;  
576 (iv) wireless capabilities;  
577 (v) optical capabilities;  
578 (vi) electromagnetic capabilities; or  
579 (vii) capabilities similar to Subsections (36)(b)(i) through (vi).
- 580 (37) "Employee" is as defined in Section 59-10-401.
- 581 (38) "Fixed guideway" means a public transit facility that uses and occupies:
- 582 (a) rail for the use of public transit; or  
583 (b) a separate right-of-way for the use of public transit.
- 584 (39) "Fixed wireless service" means a telecommunications service that provides radio  
585 communication between fixed points.
- 586 (40) (a) "Food and food ingredients" means substances:
- 587 (i) regardless of whether the substances are in:
- 588 (A) liquid form;

589 (B) concentrated form;  
590 (C) solid form;  
591 (D) frozen form;  
592 (E) dried form; or  
593 (F) dehydrated form; and  
594 (ii) that are:  
595 (A) sold for:  
596 (I) ingestion by humans; or  
597 (II) chewing by humans; and  
598 (B) consumed for the substance's:  
599 (I) taste; or  
600 (II) nutritional value.  
601 (b) "Food and food ingredients" includes an item described in Subsection (75)(b)(iii).  
602 (c) "Food and food ingredients" does not include:  
603 (i) an alcoholic beverage;  
604 (ii) tobacco; or  
605 (iii) prepared food.  
606 (41) (a) "Fundraising sales" means sales:  
607 (i) (A) made by a school; or  
608 (B) made by a school student;  
609 (ii) that are for the purpose of raising funds for the school to purchase equipment,  
610 materials, or provide transportation; and  
611 (iii) that are part of an officially sanctioned school activity.  
612 (b) For purposes of Subsection (41)(a)(iii), "officially sanctioned school activity"  
613 means a school activity:  
614 (i) that is conducted in accordance with a formal policy adopted by the school or school  
615 district governing the authorization and supervision of fundraising activities;  
616 (ii) that does not directly or indirectly compensate an individual teacher or other  
617 educational personnel by direct payment, commissions, or payment in kind; and  
618 (iii) the net or gross revenues from which are deposited in a dedicated account  
619 controlled by the school or school district.

(42) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(43) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(44) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

(i) a college campus of the Utah College of Applied Technology;

(ii) a school;

(iii) the State Board of Education;

(iv) the State Board of Regents; or

(v) a state institution of higher education as defined in Section 53B-3-102.

(45) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(46) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of

651 harvest or placing the agricultural product into a storage facility, including:  
652 (i) commercial greenhouses;  
653 (ii) irrigation pumps;  
654 (iii) farm machinery;  
655 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not  
656 registered under Title 41, Chapter 1a, Part 2, Registration; and  
657 (v) other farming activities;  
658 (c) in manufacturing tangible personal property at an establishment described in SIC  
659 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal  
660 Executive Office of the President, Office of Management and Budget;  
661 (d) by a scrap recycler if:  
662 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
663 one or more of the following items into prepared grades of processed materials for use in new  
664 products:  
665 (A) iron;  
666 (B) steel;  
667 (C) nonferrous metal;  
668 (D) paper;  
669 (E) glass;  
670 (F) plastic;  
671 (G) textile; or  
672 (H) rubber; and  
673 (ii) the new products under Subsection (46)(d)(i) would otherwise be made with  
674 nonrecycled materials; or  
675 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a  
676 cogeneration facility as defined in Section 54-2-1.  
677 (47) (a) Except as provided in Subsection (47)(b), "installation charge" means a charge  
678 for installing:  
679 (i) tangible personal property; or  
680 (ii) a product transferred electronically.  
681 (b) "Installation charge" does not include a charge for repairs or renovations of:

682 (i) tangible personal property; or  
683 (ii) a product transferred electronically.  
684 (48) (a) "Lease" or "rental" means a transfer of possession or control of tangible  
685 personal property or a product transferred electronically for:  
686 (i) (A) a fixed term; or  
687 (B) an indeterminate term; and  
688 (ii) consideration.  
689 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the  
690 amount of consideration may be increased or decreased by reference to the amount realized  
691 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue  
692 Code.  
693 (c) "Lease" or "rental" does not include:  
694 (i) a transfer of possession or control of property under a security agreement or  
695 deferred payment plan that requires the transfer of title upon completion of the required  
696 payments;  
697 (ii) a transfer of possession or control of property under an agreement that requires the  
698 transfer of title:  
699 (A) upon completion of required payments; and  
700 (B) if the payment of an option price does not exceed the greater of:  
701 (I) \$100; or  
702 (II) 1% of the total required payments; or  
703 (iii) providing tangible personal property along with an operator for a fixed period of  
704 time or an indeterminate period of time if the operator is necessary for equipment to perform as  
705 designed.  
706 (d) For purposes of Subsection (48)(c)(iii), an operator is necessary for equipment to  
707 perform as designed if the operator's duties exceed the:  
708 (i) set-up of tangible personal property;  
709 (ii) maintenance of tangible personal property; or  
710 (iii) inspection of tangible personal property.  
711 (49) "Load and leave" means delivery to a purchaser by use of a tangible storage media  
712 if the tangible storage media is not physically transferred to the purchaser.

- 713 (50) "Local taxing jurisdiction" means a:
- 714 (a) county that is authorized to impose an agreement sales and use tax;
- 715 (b) city that is authorized to impose an agreement sales and use tax; or
- 716 (c) town that is authorized to impose an agreement sales and use tax.
- 717 (51) "Manufactured home" is as defined in Section 58-56-3.
- 718 (52) For purposes of Section 59-12-104, "manufacturing facility" means:
- 719 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
- 720 Industrial Classification Manual of the federal Executive Office of the President, Office of
- 721 Management and Budget;
- 722 (b) a scrap recycler if:
- 723 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 724 one or more of the following items into prepared grades of processed materials for use in new
- 725 products:
- 726 (A) iron;
- 727 (B) steel;
- 728 (C) nonferrous metal;
- 729 (D) paper;
- 730 (E) glass;
- 731 (F) plastic;
- 732 (G) textile; or
- 733 (H) rubber; and
- 734 (ii) the new products under Subsection (52)(b)(i) would otherwise be made with
- 735 nonrecycled materials; or
- 736 (c) a cogeneration facility as defined in Section 54-2-1.
- 737 (53) "Member of the immediate family of the producer" means a person who is related
- 738 to a producer described in Subsection 59-12-104(20)(a) as a:
- 739 (a) child or stepchild, regardless of whether the child or stepchild is:
- 740 (i) an adopted child or adopted stepchild; or
- 741 (ii) a foster child or foster stepchild;
- 742 (b) grandchild or stepgrandchild;
- 743 (c) grandparent or stepgrandparent;

- 744 (d) nephew or stepnephew;  
745 (e) niece or stepniece;  
746 (f) parent or stepparent;  
747 (g) sibling or stepsibling;  
748 (h) spouse;  
749 (i) person who is the spouse of a person described in Subsections (53)(a) through (g);  
750 or  
751 (j) person similar to a person described in Subsections (53)(a) through (i) as  
752 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
753 Administrative Rulemaking Act.
- 754 (54) "Mobile home" is as defined in Section 58-56-3.  
755 (55) "Mobile telecommunications service" is as defined in the Mobile  
756 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 757 (56) (a) "Mobile wireless service" means a telecommunications service, regardless of  
758 the technology used, if:  
759 (i) the origination point of the conveyance, routing, or transmission is not fixed;  
760 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or  
761 (iii) the origination point described in Subsection (56)(a)(i) and the termination point  
762 described in Subsection (56)(a)(ii) are not fixed.
- 763 (b) "Mobile wireless service" includes a telecommunications service that is provided  
764 by a commercial mobile radio service provider.
- 765 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
766 commission may by rule define "commercial mobile radio service provider."
- 767 (57) (a) Except as provided in Subsection (57)(c), "mobility enhancing equipment"  
768 means equipment that is:  
769 (i) primarily and customarily used to provide or increase the ability to move from one  
770 place to another;  
771 (ii) appropriate for use in a:  
772 (A) home; or  
773 (B) motor vehicle; and  
774 (iii) not generally used by persons with normal mobility.

775 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
776 the equipment described in Subsection (57)(a).

777 (c) Notwithstanding Subsection (57)(a), "mobility enhancing equipment" does not  
778 include:

779 (i) a motor vehicle;

780 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor  
781 vehicle manufacturer;

782 (iii) durable medical equipment; or

783 (iv) a prosthetic device.

784 (58) "Model 1 seller" means a seller that has selected a certified service provider as the  
785 seller's agent to perform all of the seller's sales and use tax functions for agreement sales and  
786 use taxes other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's  
787 own purchases.

788 (59) "Model 2 seller" means a seller that:

789 (a) except as provided in Subsection (59)(b), has selected a certified automated system  
790 to perform the seller's sales tax functions for agreement sales and use taxes; and

791 (b) notwithstanding Subsection (59)(a), retains responsibility for remitting all of the  
792 sales tax:

793 (i) collected by the seller; and

794 (ii) to the appropriate local taxing jurisdiction.

795 (60) (a) Subject to Subsection (60)(b), "model 3 seller" means a seller that has:

796 (i) sales in at least five states that are members of the agreement;

797 (ii) total annual sales revenues of at least \$500,000,000;

798 (iii) a proprietary system that calculates the amount of tax:

799 (A) for an agreement sales and use tax; and

800 (B) due to each local taxing jurisdiction; and

801 (iv) entered into a performance agreement with the governing board of the agreement.

802 (b) For purposes of Subsection (60)(a), "model 3 seller" includes an affiliated group of  
803 sellers using the same proprietary system.

804 (61) "Modular home" means a modular unit as defined in Section 58-56-3.

805 (62) "Motor vehicle" is as defined in Section 41-1a-102.

(63) "Oil shale" means a group of fine black to dark brown shales containing bituminous material that yields petroleum upon distillation.

(64) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(65) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (65)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(66) "Pawnbroker" is as defined in Section 13-32a-102.

(67) "Pawn transaction" is as defined in Section 13-32a-102.

(68) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in

837 Subsection (68)(c)(iii) or (iv).

838 (c) "Permanently attached to real property" does not include:

839 (i) the attachment of portable or movable tangible personal property to real property if  
840 that portable or movable tangible personal property is attached to real property only for:

841 (A) convenience;

842 (B) stability; or

843 (C) for an obvious temporary purpose;

844 (ii) the detachment of tangible personal property from real property except for the  
845 detachment described in Subsection (68)(b)(ii);

846 (iii) an attachment of the following tangible personal property to real property if the  
847 attachment to real property is only through a line that supplies water, electricity, gas,  
848 telecommunications, cable, or supplies a similar item as determined by the commission by rule  
849 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

850 (A) a computer;

851 (B) a telephone;

852 (C) a television; or

853 (D) tangible personal property similar to Subsections (68)(c)(iii)(A) through (C) as  
854 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
855 Administrative Rulemaking Act; or

856 (iv) an item listed in Subsection (108)(c).

857 (69) "Person" includes any individual, firm, partnership, joint venture, association,  
858 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,  
859 municipality, district, or other local governmental entity of the state, or any group or  
860 combination acting as a unit.

861 (70) "Place of primary use":

862 (a) for telecommunications service other than mobile telecommunications service,  
863 means the street address representative of where the customer's use of the telecommunications  
864 service primarily occurs, which shall be:

865 (i) the residential street address of the customer; or

866 (ii) the primary business street address of the customer; or

867 (b) for mobile telecommunications service, is as defined in the Mobile

868 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

869 (71) (a) "Postpaid calling service" means a telecommunications service a person  
870 obtains by making a payment on a call-by-call basis:

871 (i) through the use of a:

872 (A) bank card;

873 (B) credit card;

874 (C) debit card; or

875 (D) travel card; or

876 (ii) by a charge made to a telephone number that is not associated with the origination  
877 or termination of the telecommunications service.

878 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling  
879 service, that would be a prepaid wireless calling service if the service were exclusively a  
880 telecommunications service.

881 (72) "Postproduction" means an activity related to the finishing or duplication of a  
882 medium described in Subsection 59-12-104(54)(a).

883 (73) "Prepaid calling service" means a telecommunications service:

884 (a) that allows a purchaser access to telecommunications service that is exclusively  
885 telecommunications service;

886 (b) that:

887 (i) is paid for in advance; and

888 (ii) enables the origination of a call using an:

889 (A) access number; or

890 (B) authorization code;

891 (c) that is dialed:

892 (i) manually; or

893 (ii) electronically; and

894 (d) sold in predetermined units or dollars that decline:

895 (i) by a known amount; and

896 (ii) with use.

897 (74) "Prepaid wireless calling service" means a telecommunications service:

898 (a) that provides the right to utilize:

- 899 (i) mobile wireless service; and  
900 (ii) other service that is not a telecommunications service, including:  
901 (A) the download of a product transferred electronically;  
902 (B) a content service; or  
903 (C) an ancillary service;  
904 (b) that:  
905 (i) is paid for in advance; and  
906 (ii) enables the origination of a call using an:  
907 (A) access number; or  
908 (B) authorization code;  
909 (c) that is dialed:  
910 (i) manually; or  
911 (ii) electronically; and  
912 (d) sold in predetermined units or dollars that decline:  
913 (i) by a known amount; and  
914 (ii) with use.  
915 (75) (a) "Prepared food" means:  
916 (i) food:  
917 (A) sold in a heated state; or  
918 (B) heated by a seller;  
919 (ii) two or more food ingredients mixed or combined by the seller for sale as a single  
920 item; or  
921 (iii) except as provided in Subsection (75)(c), food sold with an eating utensil provided  
922 by the seller, including a:  
923 (A) plate;  
924 (B) knife;  
925 (C) fork;  
926 (D) spoon;  
927 (E) glass;  
928 (F) cup;  
929 (G) napkin; or

- 930 (H) straw.
- 931 (b) "Prepared food" does not include:
- 932 (i) food that a seller only:
- 933 (A) cuts;
- 934 (B) repackages; or
- 935 (C) pasteurizes; or
- 936 (ii) (A) the following:
- 937 (I) raw egg;
- 938 (II) raw fish;
- 939 (III) raw meat;
- 940 (IV) raw poultry; or
- 941 (V) a food containing an item described in Subsections (75)(b)(ii)(A)(I) through (IV);
- 942 and
- 943 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 944 Food and Drug Administration's Food Code that a consumer cook the items described in
- 945 Subsection (75)(b)(ii)(A) to prevent food borne illness; or
- 946 (iii) the following if sold without eating utensils provided by the seller:
- 947 (A) food and food ingredients sold by a seller if the seller's proper primary
- 948 classification under the 2002 North American Industry Classification System of the federal
- 949 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 950 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 951 Manufacturing;
- 952 (B) food and food ingredients sold in an unheated state:
- 953 (I) by weight or volume; and
- 954 (II) as a single item; or
- 955 (C) a bakery item, including:
- 956 (I) a bagel;
- 957 (II) a bar;
- 958 (III) a biscuit;
- 959 (IV) bread;
- 960 (V) a bun;

- 961 (VI) a cake;  
962 (VII) a cookie;  
963 (VIII) a croissant;  
964 (IX) a danish;  
965 (X) a donut;  
966 (XI) a muffin;  
967 (XII) a pastry;  
968 (XIII) a pie;  
969 (XIV) a roll;  
970 (XV) a tart;  
971 (XVI) a torte; or  
972 (XVII) a tortilla.
- 973 (c) Notwithstanding Subsection (75)(a)(iii), an eating utensil provided by the seller  
974 does not include the following used to transport the food:
- 975 (i) a container; or  
976 (ii) packaging.
- 977 (76) "Prescription" means an order, formula, or recipe that is issued:
- 978 (a) (i) orally;  
979 (ii) in writing;  
980 (iii) electronically; or  
981 (iv) by any other manner of transmission; and  
982 (b) by a licensed practitioner authorized by the laws of a state.
- 983 (77) (a) Except as provided in Subsection (77)(b)(ii) or (iii), "prewritten computer  
984 software" means computer software that is not designed and developed:
- 985 (i) by the author or other creator of the computer software; and  
986 (ii) to the specifications of a specific purchaser.
- 987 (b) "Prewritten computer software" includes:
- 988 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer  
989 software is not designed and developed:
- 990 (A) by the author or other creator of the computer software; and  
991 (B) to the specifications of a specific purchaser;

(ii) notwithstanding Subsection (77)(a), computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) notwithstanding Subsection (77)(a) and except as provided in Subsection (77)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (77)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) Notwithstanding Subsection (77)(b)(iii), "prewritten computer software" does not include a modification or enhancement described in Subsection (77)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) separately stated on the invoice or other statement of price provided to the purchaser.

(78) (a) "Private communication service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(79) (a) "Prosthetic device" means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

- 1023 (i) parts used in the repairs or renovation of a prosthetic device;  
1024 (ii) replacement parts for a prosthetic device;  
1025 (iii) a dental prosthesis; or  
1026 (iv) a hearing aid.
- 1027 (c) "Prosthetic device" does not include:  
1028 (i) corrective eyeglasses; or  
1029 (ii) contact lenses.
- 1030 (80) (a) "Protective equipment" means an item:  
1031 (i) for human wear; and  
1032 (ii) that is:  
1033 (A) designed as protection:  
1034 (I) to the wearer against injury or disease; or  
1035 (II) against damage or injury of other persons or property; and  
1036 (B) not suitable for general use.
- 1037 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1038 commission shall make rules:  
1039 (i) listing the items that constitute "protective equipment"; and  
1040 (ii) that are consistent with the list of items that constitute "protective equipment"  
1041 under the agreement.
- 1042 (81) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or  
1043 printed matter, other than a photocopy:  
1044 (i) regardless of:  
1045 (A) characteristics;  
1046 (B) copyright;  
1047 (C) form;  
1048 (D) format;  
1049 (E) method of reproduction; or  
1050 (F) source; and  
1051 (ii) made available in printed or electronic format.
- 1052 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1053 commission may by rule define the term "photocopy."

1054 (82) (a) "Purchase price" and "sales price" mean the total amount of consideration:  
1055 (i) valued in money; and  
1056 (ii) for which tangible personal property, a product transferred electronically, or  
1057 services are:  
1058 (A) sold;  
1059 (B) leased; or  
1060 (C) rented.  
1061 (b) "Purchase price" and "sales price" include:  
1062 (i) the seller's cost of the tangible personal property, a product transferred  
1063 electronically, or services sold;  
1064 (ii) expenses of the seller, including:  
1065 (A) the cost of materials used;  
1066 (B) a labor cost;  
1067 (C) a service cost;  
1068 (D) interest;  
1069 (E) a loss;  
1070 (F) the cost of transportation to the seller; or  
1071 (G) a tax imposed on the seller;  
1072 (iii) a charge by the seller for any service necessary to complete the sale; or  
1073 (iv) consideration a seller receives from a person other than the purchaser if:  
1074 (A) (I) the seller actually receives consideration from a person other than the purchaser;  
1075 and  
1076 (II) the consideration described in Subsection (82)(b)(iv)(A)(I) is directly related to a  
1077 price reduction or discount on the sale;  
1078 (B) the seller has an obligation to pass the price reduction or discount through to the  
1079 purchaser;  
1080 (C) the amount of the consideration attributable to the sale is fixed and determinable by  
1081 the seller at the time of the sale to the purchaser; and  
1082 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the  
1083 seller to claim a price reduction or discount; and  
1084 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,

1085 coupon, or other documentation with the understanding that the person other than the seller  
1086 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1087 (II) the purchaser identifies that purchaser to the seller as a member of a group or  
1088 organization allowed a price reduction or discount, except that a preferred customer card that is  
1089 available to any patron of a seller does not constitute membership in a group or organization  
1090 allowed a price reduction or discount; or

1091 (III) the price reduction or discount is identified as a third party price reduction or  
1092 discount on the:

1093 (Aa) invoice the purchaser receives; or

1094 (Bb) certificate, coupon, or other documentation the purchaser presents.

1095 (c) "Purchase price" and "sales price" do not include:

1096 (i) a discount:

1097 (A) in a form including:

1098 (I) cash;

1099 (II) term; or

1100 (III) coupon;

1101 (B) that is allowed by a seller;

1102 (C) taken by a purchaser on a sale; and

1103 (D) that is not reimbursed by a third party; or

1104 (ii) the following if separately stated on an invoice, bill of sale, or similar document  
1105 provided to the purchaser:

1106 (A) the following from credit extended on the sale of tangible personal property or  
1107 services:

1108 (I) a carrying charge;

1109 (II) a financing charge; or

1110 (III) an interest charge;

1111 (B) a delivery charge;

1112 (C) an installation charge;

1113 (D) a manufacturer rebate on a motor vehicle; or

1114 (E) a tax or fee legally imposed directly on the consumer.

1115 (83) "Purchaser" means a person to whom:

- 1116 (a) a sale of tangible personal property is made;  
1117 (b) a product is transferred electronically; or  
1118 (c) a service is furnished.
- 1119 (84) "Regularly rented" means:  
1120 (a) rented to a guest for value three or more times during a calendar year; or  
1121 (b) advertised or held out to the public as a place that is regularly rented to guests for  
1122 value.
- 1123 (85) "Renewable energy" means:  
1124 (a) biomass energy;  
1125 (b) hydroelectric energy;  
1126 (c) geothermal energy;  
1127 (d) solar energy; or  
1128 (e) wind energy.
- 1129 (86) (a) "Renewable energy production facility" means a facility that:  
1130 (i) uses renewable energy to produce electricity; and  
1131 (ii) has a production capacity of 20 kilowatts or greater.  
1132 (b) A facility is a renewable energy production facility regardless of whether the  
1133 facility is:  
1134 (i) connected to an electric grid; or  
1135 (ii) located on the premises of an electricity consumer.
- 1136 (87) "Rental" is as defined in Subsection (48).
- 1137 (88) "Repairs or renovations of tangible personal property" means:  
1138 (a) a repair or renovation of tangible personal property that is not permanently attached  
1139 to real property; or  
1140 (b) attaching tangible personal property or a product that is transferred electronically to  
1141 other tangible personal property if the other tangible personal property to which the tangible  
1142 personal property or product that is transferred electronically is attached is not permanently  
1143 attached to real property.
- 1144 (89) "Research and development" means the process of inquiry or experimentation  
1145 aimed at the discovery of facts, devices, technologies, or applications and the process of  
1146 preparing those devices, technologies, or applications for marketing.

1147 (90) (a) "Residential telecommunications services" means a telecommunications  
1148 service or an ancillary service that is provided to an individual for personal use:

1149 (i) at a residential address; or

1150 (ii) at an institution, including a nursing home or a school, if the telecommunications  
1151 service or ancillary service is provided to and paid for by the individual residing at the  
1152 institution rather than the institution.

1153 (b) For purposes of Subsection (90)(a), a residential address includes an:

1154 (i) apartment; or

1155 (ii) other individual dwelling unit.

1156 (91) "Residential use" means the use in or around a home, apartment building, sleeping  
1157 quarters, and similar facilities or accommodations.

1158 (92) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
1159 than:

1160 (a) resale;

1161 (b) sublease; or

1162 (c) subrent.

1163 (93) (a) "Retailer" means any person engaged in a regularly organized business in  
1164 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and  
1165 who is selling to the user or consumer and not for resale.

1166 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
1167 engaged in the business of selling to users or consumers within the state.

1168 (94) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
1169 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
1170 Subsection 59-12-103(1), for consideration.

1171 (b) "Sale" includes:

1172 (i) installment and credit sales;

1173 (ii) any closed transaction constituting a sale;

1174 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
1175 chapter;

1176 (iv) any transaction if the possession of property is transferred but the seller retains the  
1177 title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(95) "Sale at retail" is as defined in Subsection (92).

(96) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(97) "Sales price" is as defined in Subsection (82).

(98) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

1209 (IV) laboratory supplies; or  
1210 (V) safety equipment;  
1211 (B) the sale of a uniform, protective equipment, or sports or recreational equipment  
1212 that:  
1213 (I) a student is specifically required to wear as a condition of participation in a  
1214 school-related event or school-related activity; and  
1215 (II) is not readily adaptable to general or continued usage to the extent that it takes the  
1216 place of ordinary clothing;  
1217 (C) sales of the following if the net or gross revenues generated by the sales are  
1218 deposited into a school district fund or school fund dedicated to school meals:  
1219 (I) food and food ingredients; or  
1220 (II) prepared food; or  
1221 (D) transportation charges for official school activities; or  
1222 (ii) amounts paid to or amounts charged by a school for admission to a school-related  
1223 event or school-related activity.  
1224 (b) "Sales relating to schools" does not include:  
1225 (i) bookstore sales of items that are not educational materials or supplies;  
1226 (ii) except as provided in Subsection (98)(a)(i)(B):  
1227 (A) clothing;  
1228 (B) clothing accessories or equipment;  
1229 (C) protective equipment; or  
1230 (D) sports or recreational equipment; or  
1231 (iii) amounts paid to or amounts charged by a school for admission to a school-related  
1232 event or school-related activity if the amounts paid or charged are passed through to a person:  
1233 (A) other than a:  
1234 (I) school;  
1235 (II) nonprofit organization authorized by a school board or a governing body of a  
1236 private school to organize and direct a competitive secondary school activity; or  
1237 (III) nonprofit association authorized by a school board or a governing body of a  
1238 private school to organize and direct a competitive secondary school activity; and  
1239 (B) that is required to collect sales and use taxes under this chapter.

1240 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1241 commission may make rules defining the term "passed through."

1242 (99) For purposes of this section and Section 59-12-104, "school":

1243 (a) means:

1244 (i) an elementary school or a secondary school that:

1245 (A) is a:

1246 (I) public school; or

1247 (II) private school; and

1248 (B) provides instruction for one or more grades kindergarten through 12; or

1249 (ii) a public school district; and

1250 (b) includes the Electronic High School as defined in Section 53A-15-1002.

1251 (100) "Seller" means a person that makes a sale, lease, or rental of:

1252 (a) tangible personal property;

1253 (b) a product transferred electronically; or

1254 (c) a service.

1255 (101) (a) "Semiconductor fabricating, processing, research, or development materials"

1256 means tangible personal property or a product transferred electronically if the tangible personal

1257 property or product transferred electronically is:

1258 (i) used primarily in the process of:

1259 (A) (I) manufacturing a semiconductor;

1260 (II) fabricating a semiconductor; or

1261 (III) research or development of a:

1262 (Aa) semiconductor; or

1263 (Bb) semiconductor manufacturing process; or

1264 (B) maintaining an environment suitable for a semiconductor; or

1265 (ii) consumed primarily in the process of:

1266 (A) (I) manufacturing a semiconductor;

1267 (II) fabricating a semiconductor; or

1268 (III) research or development of a:

1269 (Aa) semiconductor; or

1270 (Bb) semiconductor manufacturing process; or

- 1271 (B) maintaining an environment suitable for a semiconductor.
- 1272 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1273 includes:
- 1274 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1275 transferred electronically described in Subsection (101)(a); or
- 1276 (ii) a chemical, catalyst, or other material used to:
- 1277 (A) produce or induce in a semiconductor a:
- 1278 (I) chemical change; or
- 1279 (II) physical change;
- 1280 (B) remove impurities from a semiconductor; or
- 1281 (C) improve the marketable condition of a semiconductor.
- 1282 (102) "Senior citizen center" means a facility having the primary purpose of providing
- 1283 services to the aged as defined in Section 62A-3-101.
- 1284 (103) "Simplified electronic return" means the electronic return:
- 1285 (a) described in Section 318(C) of the agreement; and
- 1286 (b) approved by the governing board of the agreement.
- 1287 (104) "Solar energy" means the sun used as the sole source of energy for producing
- 1288 electricity.
- 1289 (105) (a) "Sports or recreational equipment" means an item:
- 1290 (i) designed for human use; and
- 1291 (ii) that is:
- 1292 (A) worn in conjunction with:
- 1293 (I) an athletic activity; or
- 1294 (II) a recreational activity; and
- 1295 (B) not suitable for general use.
- 1296 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1297 commission shall make rules:
- 1298 (i) listing the items that constitute "sports or recreational equipment"; and
- 1299 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1300 equipment" under the agreement.
- 1301 (106) "State" means the state of Utah, its departments, and agencies.

1302 (107) "Storage" means any keeping or retention of tangible personal property or any  
1303 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except  
1304 sale in the regular course of business.

1305 (108) (a) Except as provided in Subsection (108) (d) or (e), "tangible personal  
1306 property" means personal property that:

1307 (i) may be:

1308 (A) seen;

1309 (B) weighed;

1310 (C) measured;

1311 (D) felt; or

1312 (E) touched; or

1313 (ii) is in any manner perceptible to the senses.

1314 (b) "Tangible personal property" includes:

1315 (i) electricity;

1316 (ii) water;

1317 (iii) gas;

1318 (iv) steam; or

1319 (v) prewritten computer software.

1320 (c) "Tangible personal property" includes the following regardless of whether the item  
1321 is attached to real property:

1322 (i) a dishwasher;

1323 (ii) a dryer;

1324 (iii) a freezer;

1325 (iv) a microwave;

1326 (v) a refrigerator;

1327 (vi) a stove;

1328 (vii) a washer; or

1329 (viii) an item similar to Subsections (108)(c)(i) through (vii) as determined by the

1330 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

1331 Rulemaking Act.

1332 (d) "Tangible personal property" does not include a product that is transferred

1333 electronically.

1334 (e) "Tangible personal property" does not include the following if attached to real  
1335 property, regardless of whether the attachment to real property is only through a line that  
1336 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the  
1337 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1338 Rulemaking Act:

- 1339 (i) a hot water heater;
- 1340 (ii) a water filtration system; or
- 1341 (iii) a water softener system.

1342 (109) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon  
1343 and require further processing other than mechanical blending before becoming finished  
1344 petroleum products.

1345 (110) (a) "Telecommunications enabling or facilitating equipment, machinery, or  
1346 software" means an item listed in Subsection (110)(b) if that item is purchased or leased  
1347 primarily to enable or facilitate one or more of the following to function:

- 1348 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1349 (ii) telecommunications transmission equipment, machinery, or software.

1350 (b) The following apply to Subsection (110)(a):

- 1351 (i) a pole;
- 1352 (ii) software;
- 1353 (iii) a supplementary power supply;
- 1354 (iv) temperature or environmental equipment or machinery;
- 1355 (v) test equipment;
- 1356 (vi) a tower; or
- 1357 (vii) equipment, machinery, or software that functions similarly to an item listed in  
1358 Subsections (110)(b)(i) through (vi) as determined by the commission by rule made in  
1359 accordance with Subsection (110)(c).

1360 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1361 commission may by rule define what constitutes equipment, machinery, or software that  
1362 functions similarly to an item listed in Subsections (110)(b)(i) through (vi).

1363 (111) "Telecommunications equipment, machinery, or software required for 911

1364 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.  
1365 Sec. 20.18.

1366 (112) "Telecommunications maintenance or repair equipment, machinery, or software"  
1367 means equipment, machinery, or software purchased or leased primarily to maintain or repair  
1368 one or more of the following, regardless of whether the equipment, machinery, or software is  
1369 purchased or leased as a spare part or as an upgrade or modification to one or more of the  
1370 following:

- 1371 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1372 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1373 (c) telecommunications transmission equipment, machinery, or software.

1374 (113) (a) "Telecommunications service" means the electronic conveyance, routing, or  
1375 transmission of audio, data, video, voice, or any other information or signal to a point, or  
1376 among or between points.

1377 (b) "Telecommunications service" includes:

1378 (i) an electronic conveyance, routing, or transmission with respect to which a computer  
1379 processing application is used to act:

- 1380 (A) on the code, form, or protocol of the content;
- 1381 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 1382 (C) regardless of whether the service:
  - 1383 (I) is referred to as voice over Internet protocol service; or
  - 1384 (II) is classified by the Federal Communications Commission as enhanced or value  
1385 added;

1386 (ii) an 800 service;

1387 (iii) a 900 service;

1388 (iv) a fixed wireless service;

1389 (v) a mobile wireless service;

1390 (vi) a postpaid calling service;

1391 (vii) a prepaid calling service;

1392 (viii) a prepaid wireless calling service; or

1393 (ix) a private communications service.

1394 (c) "Telecommunications service" does not include:

- 1395 (i) advertising, including directory advertising;  
1396 (ii) an ancillary service;  
1397 (iii) a billing and collection service provided to a third party;  
1398 (iv) a data processing and information service if:  
1399 (A) the data processing and information service allows data to be:  
1400 (I) (Aa) acquired;  
1401 (Bb) generated;  
1402 (Cc) processed;  
1403 (Dd) retrieved; or  
1404 (Ee) stored; and  
1405 (II) delivered by an electronic transmission to a purchaser; and  
1406 (B) the purchaser's primary purpose for the underlying transaction is the processed data  
1407 or information;  
1408 (v) installation or maintenance of the following on a customer's premises:  
1409 (A) equipment; or  
1410 (B) wiring;  
1411 (vi) Internet access service;  
1412 (vii) a paging service;  
1413 (viii) a product transferred electronically, including:  
1414 (A) music;  
1415 (B) reading material;  
1416 (C) a ring tone;  
1417 (D) software; or  
1418 (E) video;  
1419 (ix) a radio and television audio and video programming service:  
1420 (A) regardless of the medium; and  
1421 (B) including:  
1422 (I) furnishing conveyance, routing, or transmission of a television audio and video  
1423 programming service by a programming service provider;  
1424 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or  
1425 (III) audio and video programming services delivered by a commercial mobile radio

1426 service provider as defined in 47 C.F.R. Sec. 20.3;

1427 (x) a value-added nonvoice data service; or

1428 (xi) tangible personal property.

1429 (114) (a) "Telecommunications service provider" means a person that:

1430 (i) owns, controls, operates, or manages a telecommunications service; and

1431 (ii) engages in an activity described in Subsection (114)(a)(i) for the shared use with or

1432 resale to any person of the telecommunications service.

1433 (b) A person described in Subsection (114)(a) is a telecommunications service provider

1434 whether or not the Public Service Commission of Utah regulates:

1435 (i) that person; or

1436 (ii) the telecommunications service that the person owns, controls, operates, or

1437 manages.

1438 (115) (a) "Telecommunications switching or routing equipment, machinery, or

1439 software" means an item listed in Subsection (115)(b) if that item is purchased or leased

1440 primarily for switching or routing:

1441 (i) an ancillary service;

1442 (ii) data communications;

1443 (iii) voice communications; or

1444 (iv) telecommunications service.

1445 (b) The following apply to Subsection (115)(a):

1446 (i) a bridge;

1447 (ii) a computer;

1448 (iii) a cross connect;

1449 (iv) a modem;

1450 (v) a multiplexer;

1451 (vi) plug in circuitry;

1452 (vii) a router;

1453 (viii) software;

1454 (ix) a switch; or

1455 (x) equipment, machinery, or software that functions similarly to an item listed in

1456 Subsections (115)(b)(i) through (ix) as determined by the commission by rule made in

1457 accordance with Subsection (115)(c).

1458 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1459 commission may by rule define what constitutes equipment, machinery, or software that  
1460 functions similarly to an item listed in Subsections (115)(b)(i) through (ix).

1461 (116) (a) "Telecommunications transmission equipment, machinery, or software"  
1462 means an item listed in Subsection (116)(b) if that item is purchased or leased primarily for  
1463 sending, receiving, or transporting:

- 1464 (i) an ancillary service;
- 1465 (ii) data communications;
- 1466 (iii) voice communications; or
- 1467 (iv) telecommunications service.
- 1468 (b) The following apply to Subsection (116)(a):
- 1469 (i) an amplifier;
- 1470 (ii) a cable;
- 1471 (iii) a closure;
- 1472 (iv) a conduit;
- 1473 (v) a controller;
- 1474 (vi) a duplexer;
- 1475 (vii) a filter;
- 1476 (viii) an input device;
- 1477 (ix) an input/output device;
- 1478 (x) an insulator;
- 1479 (xi) microwave machinery or equipment;
- 1480 (xii) an oscillator;
- 1481 (xiii) an output device;
- 1482 (xiv) a pedestal;
- 1483 (xv) a power converter;
- 1484 (xvi) a power supply;
- 1485 (xvii) a radio channel;
- 1486 (xviii) a radio receiver;
- 1487 (xix) a radio transmitter;

1488 (xx) a repeater;  
1489 (xxi) software;  
1490 (xxii) a terminal;  
1491 (xxiii) a timing unit;  
1492 (xxiv) a transformer;  
1493 (xxv) a wire; or  
1494 (xxvi) equipment, machinery, or software that functions similarly to an item listed in

1495 Subsections (116)(b)(i) through (xxv) as determined by the commission by rule made in  
1496 accordance with Subsection (116)(c).

1497 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1498 commission may by rule define what constitutes equipment, machinery, or software that  
1499 functions similarly to an item listed in Subsections (116)(b)(i) through (xxv).

1500 (117) "Tobacco" means:

- 1501 (a) a cigarette;
- 1502 (b) a cigar;
- 1503 (c) chewing tobacco;
- 1504 (d) pipe tobacco; or
- 1505 (e) any other item that contains tobacco.

1506 (118) "Unassisted amusement device" means an amusement device, skill device, or  
1507 ride device that is started and stopped by the purchaser or renter of the right to use or operate  
1508 the amusement device, skill device, or ride device.

1509 (119) (a) "Use" means the exercise of any right or power over tangible personal  
1510 property, a product transferred electronically, or a service under Subsection 59-12-103(1),  
1511 incident to the ownership or the leasing of that tangible personal property, product transferred  
1512 electronically, or service.

1513 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
1514 property, a product transferred electronically, or a service in the regular course of business and  
1515 held for resale.

1516 (120) "Value-added nonvoice data service" means a service:

- 1517 (a) that otherwise meets the definition of a telecommunications service except that a  
1518 computer processing application is used to act primarily for a purpose other than conveyance,

1519 routing, or transmission; and

1520 (b) with respect to which a computer processing application is used to act on data or  
1521 information:

1522 (i) code;

1523 (ii) content;

1524 (iii) form; or

1525 (iv) protocol.

1526 (121) (a) Subject to Subsection (121)(b), "vehicle" means the following that are  
1527 required to be titled, registered, or titled and registered:

1528 (i) an aircraft as defined in Section 72-10-102;

1529 (ii) a vehicle as defined in Section 41-1a-102;

1530 (iii) an off-highway vehicle as defined in Section 41-22-2; or

1531 (iv) a vessel as defined in Section 41-1a-102.

1532 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

1533 (i) a vehicle described in Subsection (121)(a); or

1534 (ii) (A) a locomotive;

1535 (B) a freight car;

1536 (C) railroad work equipment; or

1537 (D) other railroad rolling stock.

1538 (122) "Vehicle dealer" means a person engaged in the business of buying, selling, or  
1539 exchanging a vehicle as defined in Subsection (121).

1540 (123) (a) "Vertical service" means an ancillary service that:

1541 (i) is offered in connection with one or more telecommunications services; and

1542 (ii) offers an advanced calling feature that allows a customer to:

1543 (A) identify a caller; and

1544 (B) manage multiple calls and call connections.

1545 (b) "Vertical service" includes an ancillary service that allows a customer to manage a  
1546 conference bridging service.

1547 (124) (a) "Voice mail service" means an ancillary service that enables a customer to  
1548 receive, send, or store a recorded message.

1549 (b) "Voice mail service" does not include a vertical service that a customer is required

1550 to have in order to utilize a voice mail service.

1551 (125) (a) Except as provided in Subsection (125)(b), "waste energy facility" means a  
1552 facility that generates electricity:

1553 (i) using as the primary source of energy waste materials that would be placed in a  
1554 landfill or refuse pit if it were not used to generate electricity, including:

1555 (A) tires;

1556 (B) waste coal; or

1557 (C) oil shale; and

1558 (ii) in amounts greater than actually required for the operation of the facility.

1559 (b) "Waste energy facility" does not include a facility that incinerates:

1560 (i) municipal solid waste;

1561 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or

1562 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1563 (126) "Watercraft" means a vessel as defined in Section 73-18-2.

1564 (127) "Wind energy" means wind used as the sole source of energy to produce  
1565 electricity.

1566 (128) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic  
1567 location by the United States Postal Service.

1568 Section 5. Section **59-12-211** is amended to read:

1569 **59-12-211. Definitions -- Location of certain transactions -- Reports to**  
1570 **commission -- Direct payment provision for a seller making certain purchases --**  
1571 **Exceptions.**

1572 (1) As used in this section:

1573 (a) (i) "Receipt" and "receive" mean:

1574 (A) taking possession of tangible personal property;

1575 (B) making first use of a service; or

1576 (C) for a product transferred electronically, the earlier of:

1577 (I) taking possession of the product transferred electronically; or

1578 (II) making first use of the product transferred electronically.

1579 (ii) "Receipt" and "receive" do not include possession by a shipping company on behalf  
1580 of a purchaser.

- 1581 (b) "Transportation equipment" means:
- 1582 (i) a locomotive or rail car that is used to carry a person or property in interstate
- 1583 commerce;
- 1584 (ii) a truck or truck-tractor:
- 1585 (A) with a gross vehicle weight rating of 10,001 pounds or more;
- 1586 (B) registered under Section 41-1a-301; and
- 1587 (C) operated under the authority of a carrier authorized and certificated:
- 1588 (I) by the United States Department of Transportation or another federal authority; and
- 1589 (II) to engage in carrying a person or property in interstate commerce;
- 1590 (iii) a trailer, semitrailer, or passenger bus that is:
- 1591 (A) registered under Section 41-1a-301; and
- 1592 (B) operated under the authority of a carrier authorized and certificated:
- 1593 (I) by the United States Department of Transportation or another federal authority; and
- 1594 (II) to engage in carrying a person or property in interstate commerce;
- 1595 (iv) an aircraft that is operated by an air carrier authorized and certificated:
- 1596 (A) by the United States Department of Transportation or another federal or foreign
- 1597 authority; and
- 1598 (B) to engage in carrying a person or property in interstate commerce; or
- 1599 (v) a container designed for use on, or a component part attached or secured on an item
- 1600 of equipment listed in, Subsections (1)(b)(i) through (iv).
- 1601 (2) Except as provided in Subsections (8) and (13), if tangible personal property, a
- 1602 product transferred electronically, or a service that is subject to taxation under this chapter is
- 1603 received by a purchaser at a business location of a seller, the location of the transaction is the
- 1604 business location of the seller.
- 1605 (3) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),
- 1606 and (13), if tangible personal property, a product transferred electronically, or a service that is
- 1607 subject to taxation under this chapter is not received by a purchaser at a business location of a
- 1608 seller, the location of the transaction is the location where the purchaser takes receipt of the
- 1609 tangible personal property or service.
- 1610 (4) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),
- 1611 and (13), if Subsection (2) or (3) does not apply, the location of the transaction is the location

1612 indicated by an address for or other information on the purchaser if:

1613 (a) the address or other information is available from the seller's business records; and

1614 (b) use of the address or other information from the seller's records does not constitute  
1615 bad faith.

1616 (5) (a) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9),  
1617 (11), and (13), if Subsection (2), (3), or (4) does not apply, the location of the transaction is the  
1618 location indicated by an address for the purchaser if:

1619 (i) the address is obtained during the consummation of the transaction; and

1620 (ii) use of the address described in Subsection (5)(a)(i) does not constitute bad faith.

1621 (b) An address used under Subsection (5)(a) includes the address of a purchaser's  
1622 payment instrument if no other address is available.

1623 (6) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),  
1624 and (13), if Subsection (2), (3), (4), or (5) does not apply or if a seller does not have sufficient  
1625 information to apply Subsection (2), (3), (4), or (5), the location of the transaction is the  
1626 location indicated by the address from which:

1627 (a) except as provided in Subsection (6)(b), for tangible personal property that is  
1628 subject to taxation under this chapter, the tangible personal property is shipped;

1629 (b) for computer software delivered electronically or for a product transferred  
1630 electronically that is subject to taxation under this chapter, the computer software or product  
1631 transferred electronically is first available for transmission by the seller; or

1632 (c) for a service that is subject to taxation under this chapter, the service is provided.

1633 (7) (a) For purposes of this Subsection (7), "shared ZIP Code" means a nine-digit ZIP  
1634 Code that is located within two or more local taxing jurisdictions.

1635 (b) If the location of a transaction determined under Subsections (3) through (6) is in a  
1636 shared ZIP Code, the location of the transaction is:

1637 (i) if there is only one local taxing jurisdiction that imposes the lowest agreement  
1638 combined tax rate for the shared ZIP Code, the local taxing jurisdiction that imposes the lowest  
1639 agreement combined tax rate; or

1640 (ii) if two or more local taxing jurisdictions impose the lowest agreement combined tax  
1641 rate for the shared ZIP Code, the local taxing jurisdiction that:

1642 (A) imposes the lowest agreement combined tax rate for the shared ZIP Code; and

(B) has located within the local taxing jurisdiction the largest number of street addresses within the shared ZIP Code.

(c) ~~[For]~~ Notwithstanding any provision under this chapter authorizing or requiring the imposition of a sales and use tax, for purposes of Subsection (7)(b), a seller shall collect a sales and use tax imposed under this chapter at the lowest agreement combined tax rate imposed within the local taxing jurisdiction in which the transaction is located under Subsection (7)(b) [notwithstanding].

~~[(i) Section 59-12-204;]~~

~~[(ii) Section 59-12-401;]~~

~~[(iii) Section 59-12-402;]~~

~~[(iv) Section 59-12-501;]~~

~~[(v) Section 59-12-502;]~~

~~[(vi) Section 59-12-703;]~~

~~[(vii) Section 59-12-802;]~~

~~[(viii) Section 59-12-804;]~~

~~[(ix) Section 59-12-1001;]~~

~~[(x) Section 59-12-1102;]~~

~~[(xi) Section 59-12-1302;]~~

~~[(xii) Section 59-12-1402;]~~

~~[(xiii) Section 59-12-1503;]~~

~~[(xiv) Section 59-12-1703; or]~~

~~[(xv) Section 59-12-1802.]~~

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) providing for the circumstances under which a seller has exercised due diligence in determining the nine-digit ZIP Code for an address; or

(ii) notwithstanding Subsection (7)(b), for determining the local taxing jurisdiction within which a transaction is located if a seller is unable to determine the local taxing jurisdiction within which the transaction is located under Subsection (7)(b).

(8) The location of a transaction made with a direct payment permit described in Section 59-12-107.1 is the location where receipt of the tangible personal property, product, or

1674 service by the purchaser occurs.

1675 (9) The location of a purchase of direct mail is the location described in Subsection (6),  
1676 if the purchaser of the direct mail:

1677 (a) has not been issued a direct payment permit under Section 59-12-107.1; and

1678 (b) does not provide the seller the form or information described in Subsection  
1679 59-12-123(1).

1680 (10) (a) Except as provided in Subsection (10)(b), the location of a transaction  
1681 determined under Subsections (3) through (6), (8), or (9), is the local taxing jurisdiction within  
1682 which:

1683 (i) the nine-digit ZIP Code assigned to the location determined under Subsections (3)  
1684 through (6), (8), or (9) is located; or

1685 (ii) the five-digit ZIP Code assigned to the location determined under Subsections (3)  
1686 through (6), (8), or (9) is located if:

1687 (A) a nine-digit ZIP Code is not available for the location determined under  
1688 Subsections (3) through (6), (8), or (9); or

1689 (B) after exercising due diligence, a seller or certified service provider is unable to  
1690 determine a nine-digit ZIP Code for the location determined under Subsections (3) through (6),  
1691 (8), or (9).

1692 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1693 commission may make rules for determining the local taxing jurisdiction within which a  
1694 transaction is located if a seller or certified service provider is unable to determine the local  
1695 taxing jurisdiction within which the transaction is located under Subsection (10)(a).

1696 (11) (a) As used in this Subsection (11), "florist delivery transaction" means a  
1697 transaction commenced by a florist that transmits an order:

1698 (i) by:

1699 (A) telegraph;

1700 (B) telephone; or

1701 (C) a means of communication similar to Subsection (11)(a)(i)(A) or (B); and

1702 (ii) for delivery to another place:

1703 (A) in this state; or

1704 (B) outside this state.

1705 (b) Notwithstanding Subsections (3) through (6), beginning on January 1, 2009, and  
1706 ending on December 31, 2009, the location of a florist delivery transaction is the business  
1707 location of the florist that commences the florist delivery transaction.

1708 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1709 commission may by rule:

1710 (i) define:

1711 (A) "business location"; and

1712 (B) "florist";

1713 (ii) define what constitutes a means of communication similar to Subsection  
1714 (11)(a)(i)(A) or (B); and

1715 (iii) provide procedures for determining when a transaction is commenced.

1716 (12) (a) A tax collected under this chapter shall be reported to the commission on a  
1717 form that identifies the location of each transaction that occurs during the return filing period.

1718 (b) The form described in Subsection (12)(a) shall be filed with the commission as  
1719 required under this chapter.

1720 (13) This section does not apply to:

1721 (a) amounts charged by a seller for:

1722 (i) telecommunications service; or

1723 (ii) the retail sale or transfer of:

1724 (A) a motor vehicle other than a motor vehicle that is transportation equipment;

1725 (B) an aircraft other than an aircraft that is transportation equipment;

1726 (C) a watercraft;

1727 (D) a modular home;

1728 (E) a manufactured home; or

1729 (F) a mobile home; or

1730 (iii) except as provided in Section 59-12-214, the lease or rental of tangible personal  
1731 property other than tangible personal property that is transportation equipment;

1732 (b) a tax paid under this chapter:

1733 (i) by a seller; and

1734 (ii) for the seller's purchases; or

1735 (c) a retail sale of tangible personal property or a product transferred electronically if:

(i) the seller receives the order for the tangible personal property or product transferred electronically in this state;

(ii) receipt of the tangible personal property or product transferred electronically by the purchaser or the purchaser's donee occurs in this state;

(iii) the location where receipt of the tangible personal property or product transferred electronically by the purchaser occurs is determined in accordance with Subsections (3) through (5); and

(iv) at the time the seller receives the order, the record keeping system that the seller uses to calculate the proper amount of tax imposed under this chapter captures the location where the order is received.

Section 6. Section **59-12-602** is amended to read:

**59-12-602. Definitions.**

As used in this part:

(1) (a) Subject to Subsection (1)(b), "airport facility" means an airport of regional significance, as defined by the Transportation Commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) "Airport facility" includes:

(i) an appurtenance to an airport, including a fixed guideway [~~as defined in Section 59-12-1702~~] that provides transportation service to or from the airport;

(ii) a control tower, including a radar system;

(iii) a public area of an airport; or

(iv) a terminal facility.

(2) "Convention facility" means any publicly owned or operated convention center, sports arena, or other facility at which conventions, conferences, and other gatherings are held and whose primary business or function is to host such conventions, conferences, and other gatherings.

(3) "Cultural facility" means any publicly owned or operated museum, theater, art center, music hall, or other cultural or arts facility.

(4) "Recreation facility" or "tourist facility" means any publicly owned or operated park, campground, marina, dock, golf course, water park, historic park, monument, planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.

1767 (5) (a) "Restaurant" includes any coffee shop, cafeteria, luncheonette, soda fountain, or  
1768 fast-food service where food is prepared for immediate consumption.

1769 (b) "Restaurant" does not include:

1770 (i) any retail establishment whose primary business or function is the sale of fuel or  
1771 food items for off-premise, but not immediate, consumption; and

1772 (ii) a theater that sells food items, but not a dinner theater.

1773 Section 7. Section **59-12-2003** is amended to read:

1774 **59-12-2003. Imposition -- Base -- Rate -- Revenues distributed to certain public**  
1775 **transit districts.**

1776 (1) Subject to the other provisions of this section and except as provided in Subsection  
1777 (2) or (4), beginning on July 1, 2008, the state shall impose a tax under this part on the  
1778 transactions described in Subsection 59-12-103(1) within a city, town, or the unincorporated  
1779 area of a county of the first or second class if, on January 1, 2008, there is a public transit  
1780 district within any portion of that county of the first or second class.

1781 (2) The state may not impose a tax under this part within a county of the first or second  
1782 class if within all of the cities, towns, and the unincorporated area of the county of the first or  
1783 second class there is imposed a sales and use tax of:

1784 (a) .30% under Section [~~59-12-501~~] 59-12-2213;

1785 (b) .30% under Section [~~59-12-1001~~] 59-12-2215; or

1786 (c) .30% under Section [~~59-12-1503~~] 59-12-2216.

1787 (3) (a) Subject to Subsection (3)(b), if the state imposes a tax under this part, the tax  
1788 rate imposed within a city, town, or the unincorporated area of a county of the first or second  
1789 class is a percentage equal to the difference between:

1790 (i) .30%; and

1791 (ii) (A) for a city within the county of the first or second class, the highest tax rate  
1792 imposed within that city under:

1793 (I) Section [~~59-12-501~~] 59-12-2213;

1794 (II) Section [~~59-12-1001~~] 59-12-2215; or

1795 (III) Section [~~59-12-1503~~] 59-12-2216;

1796 (B) for a town within the county of the first or second class, the highest tax rate  
1797 imposed within that town under:

1798 (I) Section ~~[59-12-501]~~ 59-12-2213;

1799 (II) Section ~~[59-12-1001]~~ 59-12-2215; or

1800 (III) Section ~~[59-12-1503]~~ 59-12-2216; or

1801 (C) for the unincorporated area of the county of the first or second class, the highest tax

1802 rate imposed within that unincorporated area under:

1803 (I) Section ~~[59-12-501]~~ 59-12-2213;

1804 (II) Section ~~[59-12-1001]~~ 59-12-2215; or

1805 (III) Section ~~[59-12-1503]~~ 59-12-2216.

1806 (b) For purposes of Subsection (3)(a), if for a city, town, or the unincorporated area of

1807 a county of the first or second class, the highest tax rate imposed under Section ~~[59-12-501]~~

1808 59-12-2213, ~~[59-12-1001]~~ 59-12-2215, or ~~[59-12-1503]~~ 59-12-2216 within that city, town, or

1809 unincorporated area of the county of the first or second class is .30%, the state may not impose

1810 a tax under this part within that city, town, or unincorporated area.

1811 (4) (a) The state may not impose a tax under this part on:

1812 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses

1813 are exempt from taxation under Section 59-12-104; or

1814 (ii) except as provided in Subsection (4)(b), amounts paid or charged for food and food

1815 ingredients.

1816 (b) The state shall impose a tax under this part on amounts paid or charged for food

1817 and food ingredients if the food and food ingredients are sold as part of a bundled transaction

1818 attributable to food and ingredients and tangible personal property other than food and food

1819 ingredients.

1820 (5) For purposes of Subsection (1), the location of a transaction shall be determined in

1821 accordance with Sections 59-12-211 through 59-12-215.

1822 (6) The commission shall distribute the revenues the state collects from the sales and

1823 use tax under this part, after subtracting amounts a seller retains in accordance with Section

1824 59-12-108, to the public transit districts within the cities, towns, and unincorporated areas:

1825 (a) within which the state imposes a tax under this part; and

1826 (b) in proportion to the revenues collected from the sales and use tax under this part

1827 within each city, town, and unincorporated area within which the state imposes a tax under this

1828 part.

Section 8. Section **59-12-2201** is enacted to read:

**Part 22. Local Option Sales and Use Taxes for Transportation Act**

**59-12-2201. Title.**

This part is known as the "Local Option Sales and Use Taxes for Transportation Act."

Section 9. Section **59-12-2202** is enacted to read:

**59-12-2202. Definitions.**

As used in this part:

(1) "Airline" is as defined in Section 59-2-102.

(2) "Airport facility" is as defined in Section 59-12-602.

(3) "Airport of regional significance" means an airport identified by the Federal Aviation Administration in the most current National Plan of Integrated Airport Systems or an update to the National Plan of Integrated Airport Systems.

(4) "Annexation" means an annexation to:

(a) a county under Title 17, Chapter 2, County Consolidations and Annexations; or

(b) a city or town under Title 10, Chapter 2, Part 4, Annexation.

(5) "Annexing area" means an area that is annexed into a county, city, or town.

(6) "Council of governments" is as defined in Section 72-2-117.5.

(7) "Fixed guideway" is as defined in Section 59-12-102.

(8) "Major collector highway" is as defined in Section 72-4-102.5.

(9) "Metropolitan planning organization" is as defined in Section 72-1-208.5.

(10) "Minor arterial highway" is as defined in Section 72-4-102.5.

(11) "Minor collector road" is as defined in Section 72-4-102.5.

(12) "Principal arterial highway" is as defined in Section 72-4-102.5.

(13) "Regionally significant transportation facility" means:

(a) in a county of the first or second class:

(i) a principal arterial highway;

(ii) a minor arterial highway;

(iii) a fixed guideway that:

(A) extends across two or more cities or unincorporated areas; or

(B) is an extension to an existing fixed guideway; or

(iv) an airport of regional significance; or

1860 (b) in a county of the third, fourth, fifth, or sixth class:  
1861 (i) a principal arterial highway;  
1862 (ii) a minor arterial highway;  
1863 (iii) a major collector highway;  
1864 (iv) a minor collector road; or  
1865 (v) an airport of regional significance.  
1866 (14) "State highway" means a highway designated as a state highway under Title 72,

1867 Chapter 4, Designation of State Highways Act.

1868 (15) (a) Subject to Subsection (15)(b), "system for public transit" has the same  
1869 meaning as "public transit" as defined in Section 17B-2a-802.

1870 (b) "System for public transit" includes:

1871 (i) the following costs related to public transit:

1872 (A) maintenance costs; or

1873 (B) operating costs;

1874 (ii) a fixed guideway;

1875 (iii) a park and ride facility;

1876 (iv) a passenger station or passenger terminal;

1877 (v) a right of way for public transit; or

1878 (vi) the following that serve a public transit facility:

1879 (A) a maintenance facility;

1880 (B) a platform;

1881 (C) a repair facility;

1882 (D) a roadway;

1883 (E) a storage facility;

1884 (F) a utility line; or

1885 (G) a facility or item similar to Subsections (15)(b)(vi)(A) through (F).

1886 Section 10. Section **59-12-2203** is enacted to read:

1887 **59-12-2203. Limitations on authority to impose a sales and use tax under this**  
1888 **part.**

1889 (1) As provided in this Subsection (1), one of the following sales and use taxes may be  
1890 imposed within the boundaries of a local taxing jurisdiction:

(a) a county, city, or town may impose the sales and use tax authorized by Section 59-12-2213 in accordance with Section 59-12-2213; or

(b) a city or town may impose the sales and use tax authorized by Section 59-12-2215 in accordance with Section 59-12-2215.

(2) As provided in this Subsection (2), one of the following sales and use taxes may be imposed within the boundaries of a local taxing jurisdiction:

(a) a county, city, or town may impose the sales and use tax authorized by Section 59-12-2214 in accordance with Section 59-12-2214; or

(b) a county may impose the sales and use tax authorized by Section 59-12-2216 in accordance with Section 59-12-2216.

(3) As provided in this Subsection (3), one of the following sales and use taxes may be imposed within the boundaries of a local taxing jurisdiction:

(a) a county may impose the sales and use tax authorized by Section 59-12-2217 in accordance with Section 59-12-2217; or

(b) a county, city, or town may impose the sales and use tax authorized by Section 59-12-2218 in accordance with Section 59-12-2218.

Section 11. Section **59-12-2204** is enacted to read:

**59-12-2204. Transactions that may not be subject to taxation under this part -- Exception for food and food ingredients sold as part of a bundled transaction.**

(1) A county, city, or town may not impose a sales and use tax under this part on:

(a) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(b) except as provided in Subsection (2), amounts paid or charged for food and food ingredients.

(2) A county, city, or town imposing a sales and use tax under this part shall impose the sales and use tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

Section 12. Section **59-12-2205** is enacted to read:

**59-12-2205. Determination of the location of a transaction.**

For purposes of this part, the location of a transaction shall be determined in accordance

1922 with Sections 59-12-211 through 59-12-215.

1923 Section 13. Section **59-12-2206** is enacted to read:

1924 **59-12-2206. Administration, collection, and enforcement of a sales and use tax**  
1925 **under this part -- Transmission of revenues monthly by electronic funds transfer --**  
1926 **Transfer of revenues to a public transit district.**

1927 (1) Except as provided in Subsection (2), the commission shall administer, collect, and  
1928 enforce a sales and use tax imposed under this part.

1929 (2) The commission shall administer, collect, and enforce a sales and use tax imposed  
1930 under this part in accordance with:

1931 (a) the same procedures used to administer, collect, and enforce a tax under:

1932 (i) Part 1, Tax Collection; or

1933 (ii) Part 2, Local Sales and Use Tax Act; and

1934 (b) Chapter 1, General Taxation Policies.

1935 (3) A sales and use tax under this part is not subject to Subsections 59-12-205(2)  
1936 through (6).

1937 (4) Subject to Section 59-12-2207 and except as provided in Subsection (5) or another  
1938 provision of this part, the state treasurer shall transmit revenues collected within a county, city,  
1939 or town from a sales and use tax under this part to the county, city, or town legislative body  
1940 monthly by electronic funds transfer.

1941 (5) Subject to Section 59-12-2207, the state treasurer shall transfer revenues collected  
1942 within a county, city, or town from a sales and use tax under this part directly to a public transit  
1943 district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act, if the county,  
1944 city, or town legislative body:

1945 (a) provides written notice to the state treasurer requesting the transfer; and

1946 (b) designates the public transit district to which the county, city, or town legislative  
1947 body requests the state treasurer to transfer the revenues.

1948 Section 14. Section **59-12-2207** is enacted to read:

1949 **59-12-2207. Commission authority to retain a percentage of revenues collected**  
1950 **from a sales and use tax under this part -- Deposit of revenues into the Sales and Use Tax**  
1951 **Administrative Fees Account -- Expenditure of revenues.**

1952 (1) The commission may retain a percentage of revenues collected from a sales and use

1953 tax under this part of not to exceed the lesser of:

1954 (a) 1.50%; or

1955 (b) a percentage of revenues collected from a sales and use tax under this part

1956 sufficient to cover the cost to the commission of administering this part.

1957 (2) The commission shall:

1958 (a) deposit any revenues the commission retains under Subsection (1) into the Sales

1959 and Use Tax Administrative Fees Account; and

1960 (b) expend the revenues described in Subsection (2)(a) as provided in Subsection

1961 59-12-206(2).

1962 Section 15. Section **59-12-2208** is enacted to read:

1963 **59-12-2208. Legislative body approval requirements -- Voter approval**

1964 **requirements.**

1965 (1) Subject to the other provisions of this section, before imposing a sales and use tax

1966 under this part, a county, city, or town legislative body shall:

1967 (a) obtain approval to impose the sales and use tax from a majority of the members of

1968 the county, city, or town legislative body; and

1969 (b) submit an opinion question to the county's, city's, or town's registered voters voting

1970 on the imposition of the sales and use tax so that each registered voter has the opportunity to

1971 express the registered voter's opinion on whether a sales and use tax should be imposed under

1972 this section.

1973 (2) The opinion question required by this section shall state:

1974 "Shall (insert the name of the county, city, or town), Utah, be authorized to impose a

1975 (insert the tax rate of the sales and use tax) sales and use tax for (list the purposes for which the

1976 revenues collected from the sales and use tax shall be expended)?"

1977 (3) (a) Subject to Subsection (3)(b), the election required by this section shall be held:

1978 (i) at a regular general election conducted in accordance with the procedures and

1979 requirements of Title 20A, Election Code, governing regular general elections; or

1980 (ii) at a municipal general election conducted in accordance with the procedures and

1981 requirements of Section 20A-1-202.

1982 (b) (i) Subject to Subsection (3)(b)(ii), the county clerk of the county in which the

1983 opinion question required by this section will be submitted to registered voters shall, no later

1984 than 15 days before the date of the election:

1985 (A) publish a notice:

1986 (I) once in a newspaper published in that county; and

1987 (II) as required in Section 45-1-101; or

1988 (B) (I) cause a copy of the notice to be posted in a conspicuous place most likely to

1989 give notice of the election to the registered voters voting on the imposition of the sales and use  
1990 tax; and

1991 (II) prepare an affidavit of that posting, showing a copy of the notice and the places  
1992 where the notice was posted.

1993 (ii) The notice under Subsection (3)(b)(i) shall:

1994 (A) state that an opinion question will be submitted to the county's, city's, or town's  
1995 registered voters voting on the imposition of a sales and use tax under this section so that each  
1996 registered voter has the opportunity to express the registered voter's opinion on whether a sales  
1997 and use tax should be imposed under this section; and

1998 (B) list the purposes for which the revenues collected from the sales and use tax shall  
1999 be expended.

2000 (4) A county, city, or town that submits an opinion question to registered voters under  
2001 this section is subject to Section 20A-11-1203.

2002 (5) Subject to Section 59-12-2209, if a county, city, or town legislative body  
2003 determines that a majority of the county's, city's, or town's registered voters voting on the  
2004 imposition of a sales and use tax under this part have voted in favor of the imposition of the  
2005 sales and use tax in accordance with this section, the county, city, or town legislative body shall  
2006 impose the sales and use tax.

2007 (6) If, after imposing a sales and use tax under this part, a county, city, or town  
2008 legislative body seeks to impose a tax rate for the sales and use tax that exceeds or is less than  
2009 the tax rate stated in the opinion question described in Subsection (2) or repeals the tax rate  
2010 stated in the opinion question described in Subsection (2), the county, city, or town legislative  
2011 body shall:

2012 (a) obtain approval from a majority of the members of the county, city, or town  
2013 legislative body to impose a tax rate for the sales and use tax that exceeds or is less than the tax  
2014 rate stated in the opinion question described in Subsection (2) or repeals the tax rate stated in

2015 the opinion question described in Subsection (2); and  
2016 (b) in accordance with the procedures and requirements of this section, submit an  
2017 opinion question to the county's, city's, or town's registered voters voting on tax rate so that  
2018 each registered voter has the opportunity to express the registered voter's opinion on whether to  
2019 impose a tax rate for the sales and use tax that exceeds or is less than the tax rate stated in the  
2020 opinion question described in Subsection (2) or repeals the tax rate stated in the opinion  
2021 question described in Subsection (2).

2022 Section 16. Section **59-12-2209** is enacted to read:

2023 **59-12-2209. Enactment, repeal, or change in the rate of a sales and use tax under**  
2024 **this part -- Annexation -- Notice.**

2025 (1) Except as provided in Subsection (3) or (4), if a county, city, or town enacts or  
2026 repeals a sales and use tax or changes the rate of a sales and use tax under this part, the  
2027 enactment, repeal, or change shall take effect:

2028 (a) on the first day of a calendar quarter; and

2029 (b) after a 90-day period beginning on the date the commission receives notice meeting  
2030 the requirements of Subsection (2) from the county, city, or town.

2031 (2) The notice described in Subsection (1)(b) shall state:

2032 (a) that the county, city, or town will enact, repeal, or change the rate of a sales and use  
2033 tax under this part;

2034 (b) the statutory authority for the sales and use tax described in Subsection (2)(a);

2035 (c) the date the enactment, repeal, or change will take effect; and

2036 (d) if the county, city, or town enacts the sales and use tax or changes the rate of the  
2037 sales and use tax described in Subsection (2)(a), the rate of the sales and use tax.

2038 (3) (a) If the billing period for a transaction begins before the effective date of the  
2039 enactment of a sales and use tax or a tax rate increase under this part, the enactment of the sales  
2040 and use tax or the tax rate increase shall take effect on the first day of the first billing period  
2041 that begins after the effective date of the enactment of the sales and use tax or the tax rate  
2042 increase.

2043 (b) If the billing period for a transaction begins before the effective date of the repeal of  
2044 a sales and use tax or a tax rate decrease under this part, the repeal of the sales and use tax or  
2045 the tax rate decrease shall take effect on the first day of the last billing period that began before

2046 the effective date of the repeal of the sales and use tax or the tax rate decrease.

2047 (4) (a) If a sales and use tax due under this part on a catalogue sale is computed on the  
2048 basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in  
2049 the rate of a sales and use tax described in Subsection (1) takes effect:

2050 (i) on the first day of a calendar quarter; and

2051 (ii) beginning 60 days after the effective date of the enactment, repeal, or change in the  
2052 rate of the sales and use tax under Subsection (1).

2053 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2054 commission may by rule define the term "catalogue sale."

2055 (5) Except as provided in Subsection (7) or (8), if an annexation will result in the  
2056 enactment, repeal, or change in the rate of a sales and use tax under this part for an annexing  
2057 area, the enactment, repeal, or change shall take effect:

2058 (a) on the first day of a calendar quarter; and

2059 (b) after a 90-day period beginning on the date the commission receives notice meeting  
2060 the requirements of Subsection (6) from the county, city, or town that annexes the annexing  
2061 area.

2062 (6) The notice described in Subsection (5) shall state:

2063 (a) that the annexation described in Subsection (5) will result in an enactment, repeal,  
2064 or change in the rate of a sales and use tax under this part for the annexing area;

2065 (b) the statutory authority for the sales and use tax described in Subsection (6)(a);

2066 (c) the date the enactment, repeal, or change will take effect; and

2067 (d) if the annexation will result in the enactment or change in the rate of the sales and  
2068 use tax described in Subsection (6)(a), the rate of the sales and use tax.

2069 (7) (a) If the billing period for a transaction begins before the effective date of the  
2070 enactment of a sales and use tax or a tax rate increase under this part, the enactment of the sales  
2071 and use tax or the tax rate increase shall take effect on the first day of the first billing period  
2072 that begins after the effective date of the enactment of the sales and use tax or the tax rate  
2073 increase.

2074 (b) If the billing period for a transaction begins before the effective date of the repeal of  
2075 a sales and use tax or a tax rate decrease under this part, the repeal of the sales and use tax or  
2076 the tax rate decrease shall take effect on the first day of the last billing period that began before

the effective date of the repeal of the sales and use tax or the tax rate decrease.

(8) (a) If a sales and use tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a sales and use tax described in Subsection (6) takes effect:

(i) on the first day of a calendar quarter; and

(ii) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the sales and use tax under Subsection (6).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 17. Section **59-12-2210** is enacted to read:

**59-12-2210. Seller or certified service provider reliance on commission information.**

A seller or certified service provider is not liable for failing to collect a sales and use tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the sales and use tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

(1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

(2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Section 18. Section **59-12-2211** is enacted to read:

**59-12-2211. Certified service provider or model 2 seller reliance on commission certified software.**

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a sales and use tax required under this part if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a sales and use tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:

(i) provided by the commission; or

(ii) in the software the commission certifies.

(2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.

(3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:

(a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and

(b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of sales and use tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within ten days after the day on which the certified service provider or model 2 seller receives the notice.

(4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within ten days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Section 19. Section **59-12-2212** is enacted to read:

**59-12-2212. Purchaser relief from liability.**

(1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a sales and use tax due under this part or an underpayment if:

(i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement;

or

(ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in

2139 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:  
2140 (A) on a tax rate;  
2141 (B) on a boundary;  
2142 (C) on a taxing jurisdiction; or  
2143 (D) in the taxability matrix the commission provides in accordance with the agreement.  
2144 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under  
2145 Section 59-1-401 for failure to pay a sales and use tax due under this part or an underpayment  
2146 if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance  
2147 on incorrect data provided by the commission is as a result of conduct that is:  
2148 (i) fraudulent;  
2149 (ii) intentional; or  
2150 (iii) willful.  
2151 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is  
2152 not liable for a tax or interest under Section 59-1-402 for failure to pay a sales and use tax due  
2153 under this part or an underpayment if:  
2154 (a) the purchaser's seller or certified service provider relies on:  
2155 (i) incorrect data provided by the commission:  
2156 (A) on a tax rate;  
2157 (B) on a boundary; or  
2158 (C) on a taxing jurisdiction; or  
2159 (ii) an erroneous classification by the commission:  
2160 (A) in the taxability matrix the commission provides in accordance with the agreement;  
2161 and  
2162 (B) with respect to a term:  
2163 (I) in the library of definitions; and  
2164 (II) that is:  
2165 (Aa) listed as taxable or exempt;  
2166 (Bb) included in or excluded from "sales price"; or  
2167 (Cc) included in or excluded from a definition; or  
2168 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in  
2169 accordance with Section 59-12-107.1, relies on:

2170 (i) incorrect data provided by the commission;  
2171 (A) on a tax rate;  
2172 (B) on a boundary; or  
2173 (C) on a taxing jurisdiction; or  
2174 (ii) an erroneous classification by the commission:  
2175 (A) in the taxability matrix the commission provides in accordance with the agreement;  
2176 and  
2177 (B) with respect to a term:  
2178 (I) in the library of definitions; and  
2179 (II) that is:  
2180 (Aa) listed as taxable or exempt;  
2181 (Bb) included in or excluded from "sales price"; or  
2182 (Cc) included in or excluded from a definition.  
2183 Section 20. Section **59-12-2213** is enacted to read:  
2184 **59-12-2213. County, city, or town option sales and use tax to fund a system for**  
2185 **public transit -- Base -- Rate.**  
2186 Subject to the other provision of this part, a county, city, or town may impose a sales  
2187 and use tax under this section of up to:  
2188 (1) for a county, city, or town other than a county, city, or town described in Subsection  
2189 (2), .25% on the transactions described in Subsection 59-12-103(1) located within the county,  
2190 city, or town to fund a system for public transit; or  
2191 (2) for a county, city, or town within which a tax is not imposed under Section  
2192 59-12-2216, .30% on the transactions described in Subsection 59-12-103(1) located within the  
2193 county, city, or town, to fund a system for public transit.  
2194 Section 21. Section **59-12-2214** is enacted to read:  
2195 **59-12-2214. County, city, or town option sales and use tax to fund a system for**  
2196 **public transit, an airport facility, or to be deposited into the County of the First Class**  
2197 **State Highway Projects Fund -- Base -- Rate.**  
2198 (1) Subject to the other provisions of this part, a county, city, or town may impose a  
2199 sales and use tax of .25% on the transactions described in Subsection 59-12-103(1) located  
2200 within the county, city, or town.

2201           (2) Subject to Subsection (3), a county, city, or town that imposes a sales and use tax  
 2202           under this section shall expend the revenues collected from the sales and use tax:  
 2203           (a) to fund a system for public transit;  
 2204           (b) to fund a project or service related to an airport facility for the portion of the project  
 2205           or service that is performed within the county, city, or town within which the sales and use tax  
 2206           is imposed:  
 2207           (i) for a county that imposes the sales and use tax, if the airport facility is part of the  
 2208           regional transportation plan of the area metropolitan planning organization if a metropolitan  
 2209           planning organization exists for the area; or  
 2210           (ii) for a city or town that imposes the sales and use tax, if:  
 2211           (A) that city or town is located within a county of the second class;  
 2212           (B) that city or town owns or operates the airport facility; and  
 2213           (C) an airline is headquartered in that city or town; or  
 2214           (d) for a combination of Subsections (2)(a) and (b).  
 2215           (3) A county of the first class that imposes a sales and use tax under this section shall  
 2216           expend the revenues collected from the sales and use tax as follows:  
 2217           (a) 80% of the revenues collected from the sales and use tax shall be expended to fund  
 2218           a system for public transit; and  
 2219           (b) 20% of the revenues collected from the sales and use shall be deposited into the  
 2220           County of the First Class State Highway Projects Fund created by Section 72-2-121.  
 2221           Section 22. Section **59-12-2215** is enacted to read:  
 2222           **59-12-2215. City or town option sales and use tax for highways or to fund a**  
 2223           **system for public transit -- Base -- Rate -- Ordinance requirements.**  
 2224           (1) Subject to the other provisions of this part, a city or town may impose a sales and  
 2225           use tax of up to .30% on the transactions described in Subsection 59-12-103(1) located within  
 2226           the city or town.  
 2227           (2) A city or town imposing a sales and use tax under this section shall expend the  
 2228           revenues collected from the sales and use tax:  
 2229           (a) for the construction and maintenance of highways under the jurisdiction of the city  
 2230           or town imposing the tax;  
 2231           (b) to fund a system for public transit; or

(c) for a combination of Subsections (2)(a) and (b).

Section 23. Section **59-12-2216** is enacted to read:

**59-12-2216. County option sales and use tax for highways or to fund a system for public transit -- Base -- Rate.**

(1) Subject to the other provisions of this part, a county legislative body may impose a sales and use tax of up to .30% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.

(2) Subject to Subsection (3), before obtaining voter approval in accordance with Section 59-12-2208, a county legislative body shall adopt a resolution specifying the percentage of revenues the county will receive from the sales and use tax under this section that will be allocated to fund one or more of the following:

(a) a project or service relating to a fixed guideway for the portion of the project or service that is performed within the county;

(b) a project or service relating to a system for public transit, except for a fixed guideway, for the portion of the project or service that is performed within the county;

(c) the following relating to a state highway within the county:

(i) a project within the county if the project:

(A) begins on or after the day on which a county legislative body imposes a tax under this section; and

(B) involves an environmental study, an improvement, new construction, or a renovation;

(ii) debt service on a project described in Subsection (2)(c)(i); or

(iii) bond issuance costs related to a project described in Subsection (2)(c)(i); or

(d) a project, debt service, or bond issuance cost described in Subsection (2)(c) relating to a highway that is:

(i) a principal arterial highway or minor arterial highway;

(ii) included in a metropolitan planning organization's regional transportation plan; and

(iii) not a state highway.

(3) A county legislative body shall in the resolution described in Subsection (2) allocate 100% of the revenues the county will receive from the sales and use tax under this section for one or more of the purposes described in Subsection (2).

2263 (4) Notwithstanding Section 59-12-2208, the opinion question required by Section  
2264 59-12-2208 shall state the allocations the county legislative body makes in accordance with this  
2265 section.

2266 (5) The revenues collected from a sales and use tax under this section shall be:

2267 (a) allocated in accordance with the allocations specified in the resolution under  
2268 Subsection (2); and

2269 (b) expended as provided in this section.

2270 (6) If a county legislative body allocates revenues collected from a sales and use tax  
2271 under this section for a state highway project described in Subsection (2)(c)(i), before  
2272 beginning the state highway project within the county, the county legislative body shall:

2273 (a) obtain approval from the Transportation Commission to complete the project; and

2274 (b) enter into an interlocal agreement established in accordance with Title 11, Chapter  
2275 13, Interlocal Cooperation Act, with the Department of Transportation to complete the project.

2276 (7) If after a county legislative body imposes a sales and use tax under this section the  
2277 county legislative body seeks to change an allocation specified in the resolution under  
2278 Subsection (2), the county legislative body may change the allocation by:

2279 (a) adopting a resolution in accordance with Subsection (2) specifying the percentage  
2280 of revenues the county will receive from the sales and use tax under this section that will be  
2281 allocated to fund one or more of the items described in Subsection (2);

2282 (b) obtaining approval to change the allocation of the sales and use tax by a majority of  
2283 all of the members of the county legislative body; and

2284 (c) subject to Subsection (8):

2285 (i) in accordance with Section 59-12-2208, submitting an opinion question to the  
2286 county's registered voters voting on changing the allocation so that each registered voter has the  
2287 opportunity to express the registered voter's opinion on whether the allocation should be  
2288 changed; and

2289 (ii) in accordance with Section 59-12-2208, obtaining approval to change the allocation  
2290 from a majority of the county's registered voters voting on changing the allocation.

2291 (8) Notwithstanding Section 59-12-2208, the opinion question required by Subsection  
2292 (7)(c)(i) shall state the allocations specified in the resolution adopted in accordance with  
2293 Subsection (7)(a) and approved by the county legislative body in accordance with Subsection

2294 (7)(b).  
2295 (9) Revenues collected from a sales and use tax under this section that a county  
2296 allocates for a purpose described in Subsection (2)(c) shall be:  
2297 (a) deposited into the State Highway Projects Within Counties Fund created by Section  
2298 72-2-121.1; and  
2299 (b) expended as provided in Section 72-2-121.1.  
2300 Section 24. Section **59-12-2217** is enacted to read:  
2301 **59-12-2217. County option sales and use tax for transportation -- Base -- Rate --**  
2302 **Written prioritization process -- Approval by county legislative body.**  
2303 (1) Subject to the other provisions of this part, a county legislative body may impose a  
2304 sales and use tax of up to .25% on the transactions described in Subsection 59-12-103(1)  
2305 within the county, including the cities and towns within the county.  
2306 (2) Subject to Subsections (3) through (8) and Section 59-12-2207, the revenues  
2307 collected from a sales and use tax under this section may only be expended for:  
2308 (a) a project or service:  
2309 (i) relating to a regionally significant transportation facility for the portion of the  
2310 project or service that is performed within the county;  
2311 (ii) for new capacity or congestion mitigation if the project or service is performed  
2312 within a county:  
2313 (A) of the first or second class; or  
2314 (B) if that county is part of an area metropolitan planning organization; and  
2315 (iii) that is on a priority list:  
2316 (A) created by the county's council of governments in accordance with Subsection (7);  
2317 and  
2318 (B) approved by the county legislative body in accordance with Subsection (7);  
2319 (b) corridor preservation for a project or service described in Subsection (2)(a) as  
2320 provided in Subsection (8); or  
2321 (c) debt service or bond issuance costs related to a project or service described in  
2322 Subsection (2)(a)(i) or (ii).  
2323 (3) If a project or service described in Subsection (2) is for:  
2324 (a) a principal arterial highway or a minor arterial highway in a county of the first or

2325 second class, that project or service shall be part of the:  
2326 (i) county and municipal master plan; and  
2327 (ii) (A) statewide long-range plan; or  
2328 (B) regional transportation plan of the area metropolitan planning organization if a  
2329 metropolitan planning organization exists for the area; or  
2330 (b) a fixed guideway or an airport, that project or service shall be part of the regional  
2331 transportation plan of the area metropolitan planning organization if a metropolitan planning  
2332 organization exists for the area.  
2333 (4) In a county of the first or second class, a regionally significant transportation  
2334 facility project or service described in Subsection (2)(a)(i) shall have a funded year priority  
2335 designation on a Statewide Transportation Improvement Program and Transportation  
2336 Improvement Program if the project or service described in Subsection (2)(a)(i) is:  
2337 (a) a principal arterial highway;  
2338 (b) a minor arterial highway; or  
2339 (c) a major collector highway in a rural area.  
2340 (5) Of the revenues collected from a sales and use tax imposed under this section  
2341 within a county of the first or second class, 25% or more shall be expended for the purpose  
2342 described in Subsection (2)(b).  
2343 (6) (a) As provided in this Subsection (6), a council of governments shall:  
2344 (i) develop a written prioritization process for the prioritization of projects to be funded  
2345 by revenues collected from a sales and use tax under this section;  
2346 (ii) create a priority list of regionally significant transportation facility projects or  
2347 services described in Subsection (2)(a)(i) in accordance with Subsection (7); and  
2348 (iii) present the priority list to the county legislative body for approval in accordance  
2349 with Subsection (7).  
2350 (b) The written prioritization process described in Subsection (6)(a)(i) shall include:  
2351 (i) a definition of the type of projects to which the written prioritization process  
2352 applies;  
2353 (ii) subject to Subsection (6)(c), the specification of a weighted criteria system that the  
2354 council of governments will use to rank proposed projects and how that weighted criteria  
2355 system will be used to determine which proposed projects will be prioritized;

2356 (iii) the specification of data that is necessary to apply the weighted criteria system;

2357 (iv) application procedures for a project to be considered for prioritization by the

2358 council of governments; and

2359 (v) any other provision the council of governments considers appropriate.

2360 (c) The weighted criteria system described in Subsection (6)(b)(ii) shall include the

2361 following:

2362 (i) the cost effectiveness of a project;

2363 (ii) the degree to which a project will mitigate regional congestion;

2364 (iii) the compliance requirements of applicable federal laws or regulations;

2365 (iv) the economic impact of a project;

2366 (v) the degree to which a project will require tax revenues to fund maintenance and

2367 operation expenses; and

2368 (vi) any other provision the council of governments considers appropriate.

2369 (d) A council of governments of a county of the first or second class shall submit the

2370 written prioritization process described in Subsection (6)(a)(i) to the Executive Appropriations

2371 Committee for approval prior to taking final action on:

2372 (i) the written prioritization process; or

2373 (ii) any proposed amendment to the written prioritization process.

2374 (7) (a) A council of governments shall use the weighted criteria system adopted in the

2375 written prioritization process developed in accordance with Subsection (6) to create a priority

2376 list of regionally significant transportation facility projects or services for which revenues

2377 collected from a sales and use tax under this section may be expended.

2378 (b) Before a council of governments may finalize a priority list or the funding level of a

2379 project, the council of governments shall conduct a public meeting on:

2380 (i) the written prioritization process; and

2381 (ii) the merits of the projects that are prioritized as part of the written prioritization

2382 process.

2383 (c) A council of governments shall make the weighted criteria system ranking for each

2384 project prioritized as part of the written prioritization process publicly available before the

2385 public meeting required by Subsection (7)(b) is held.

2386 (d) If a council of governments prioritizes a project over another project with a higher

2387 rank under the weighted criteria system, the council of governments shall:

2388 (i) identify the reasons for prioritizing the project over another project with a higher  
 2389 rank under the weighted criteria system at the public meeting required by Subsection (8)(b);  
 2390 and

2391 (ii) make the reasons described in Subsection (7)(d)(i) publicly available.

2392 (e) Subject to Subsections (7)(f) and (g), after a council of governments finalizes a  
 2393 priority list in accordance with this Subsection (7), the council of governments shall:

2394 (i) submit the priority list to the county legislative body for approval; and

2395 (ii) obtain approval of the priority list from a majority of the members of the county  
 2396 legislative body.

2397 (f) A council of governments may only submit one priority list per calendar year to the  
 2398 county legislative body.

2399 (g) A county legislative body may only consider and approve one priority list submitted  
 2400 under Subsection (7)(e) per calendar year.

2401 (8) (a) Except as provided in Subsection (8)(b), revenues collected from a sales and use  
 2402 tax under this section that a county allocates for a purpose described in Subsection (2)(b) shall  
 2403 be:

2404 (i) deposited in or transferred to the Local Transportation Corridor Preservation Fund  
 2405 created by Section 72-2-117.5; and

2406 (ii) expended as provided in Section 72-2-117.5.

2407 (b) In a county of the first class, revenues collected from a sales and use tax under this  
 2408 section that a county allocates for a purpose described in Subsection (2)(b) shall be:

2409 (i) deposited in or transferred to the County of the First Class State Highway Projects  
 2410 Fund created by Section 72-2-121; and

2411 (ii) expended as provided in Section 72-2-121.

2412 Section 25. Section **59-12-2218**, which is renumbered from Section 59-12-1903 is  
 2413 renumbered and amended to read:

2414 **[59-12-1903]. \_\_\_\_\_ 59-12-2218. County option sales and use tax for airports,**  
 2415 **highways, and a system for public transit -- Base -- Rate -- Administration of sales and**  
 2416 **use tax.**

2417 (1) (a) Subject to the other provisions of this ~~[section and except as provided in~~

2418 ~~Subsection (2)]~~ part, the following may impose a sales and use tax under this ~~[part]~~ section:

2419 (i) if, on April 1, 2009, a county legislative body of a county of the second class  
2420 imposes a sales and use tax under this ~~[part]~~ section, the county legislative body of the county  
2421 of the second class may impose the sales and use tax on the transactions:

2422 (A) described in Subsection 59-12-103(1); and

2423 (B) within the county, including the cities and towns within the county; or

2424 (ii) if, on April 1, 2009, a county legislative body of a county of the second class does  
2425 not impose a sales and use tax under this ~~[part]~~ section:

2426 (A) a city legislative body of a city within the county of the second class may impose a  
2427 sales and use tax under this ~~[part]~~ section on the transactions described in Subsection  
2428 59-12-103(1) within that city;

2429 (B) a town legislative body of a town within the county of the second class may impose  
2430 a sales and use tax under this ~~[part]~~ section on the transactions described in Subsection  
2431 59-12-103(1) within that town; and

2432 (C) the county legislative body of the county of the second class may impose a sales  
2433 and use tax on the transactions described in Subsection 59-12-103(1):

2434 (I) within the county, including the cities and towns within the county, if on the date  
2435 the county legislative body provides the notice described in [~~Subsection (7)(a)]~~ Section  
2436 59-12-2209 to the commission stating that the county will enact a sales and use tax under this  
2437 ~~[part]~~ section, no city or town within that county:

2438 (Aa) imposes a sales and use tax under this ~~[part]~~ section; or

2439 (Bb) has provided the notice described in [~~Subsection (7)(a)]~~ Section 59-12-2209 to the  
2440 commission stating that the city or town will enact a sales and use tax under this ~~[part]~~ section;  
2441 or

2442 (II) within the county, except for within a city or town within that county, if, on the  
2443 date the county legislative body provides the notice described in [~~Subsection (7)(a)]~~ Section  
2444 59-12-2209 to the commission stating that the county will enact a sales and use tax under this  
2445 ~~[part]~~ section, that city or town:

2446 (Aa) imposes a sales and use tax under this ~~[part]~~ section; or

2447 (Bb) has provided the notice described in [~~Subsection (7)(a)]~~ Section 59-12-2209 to the  
2448 commission stating that the city or town will enact a sales and use tax under this ~~[part]~~ section.

2449 (b) For purposes of Subsection (1)(a), a county, city, or town legislative body that  
2450 imposes a sales and use tax under this ~~[part]~~ section may impose the tax at a rate of:

2451 (i) .10%, to be:

2452 (A) as determined by the county, city, or town legislative body, deposited as provided  
2453 in Subsection ~~[(4)]~~ (3)(c)(i) into the County of the Second Class State Highway Projects Fund  
2454 created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2;

2455 (B) as determined by the county, city, or town legislative body, expended for a project  
2456 or service relating to an airport facility for the portion of the project or service that is performed  
2457 within the county, city, or town within which the tax is imposed:

2458 (I) for a county legislative body that imposes the sales and use tax, if that airport  
2459 facility is part of the regional transportation plan of the area metropolitan planning organization  
2460 if a metropolitan planning organization exists for the area; or

2461 (II) for a city or town legislative body that imposes the sales and use tax, if:

2462 (Aa) that city or town owns or operates the airport facility; and

2463 (Bb) an airline is headquartered in that city or town; or

2464 (C) as determined by the county, city, or town legislative body, deposited or expended  
2465 for a combination of Subsections (1)(b)(i)(A) and (B); or

2466 (ii) subject to Subsection (1)(c), .25%, to be expended as follows:

2467 (A) .10% to be deposited as provided in Subsection ~~[(4)]~~ (3)(c)(i) into the County of  
2468 the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as  
2469 provided in Section 72-2-121.2;

2470 (B) .05%, to be deposited as provided in Subsection ~~[(4)]~~ (3)(c)(ii) into the Local  
2471 Transportation Corridor Preservation Fund created by Section 72-2-117.5 and expended and  
2472 distributed in accordance with Section 72-2-117.5; and

2473 (C) as determined by the county, city, or town legislative body, .10% to be:

2474 (I) deposited as provided in Subsection ~~[(4)]~~ (3)(c)(i) into the County of the Second  
2475 Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in  
2476 Section 72-2-121.2;

2477 (II) expended for:

2478 (Aa) a state highway designated under Title 72, Chapter 4, Part 1, Designation of State  
2479 Highways Act;

2480 (Bb) a local highway ~~[of regional significance]~~ that is a principal arterial highway,  
2481 minor arterial highway, major collector highway, or minor collector road; or

2482 (Cc) a combination of Subsections (1)(b)(ii)(C)(II)(Aa) and (Bb);

2483 (III) expended for a project or service relating to a system for public transit for the  
2484 portion of the project or service that is performed within the county, city, or town within which  
2485 the sales and use tax is imposed;

2486 ~~[(IV) expended for a project or service relating to a fixed guideway for the portion of~~  
2487 ~~the project or service that is performed within the county, city, or town within which the tax is~~  
2488 ~~imposed;]~~

2489 ~~[(V)]~~ (IV) expended for a project or service relating to an airport facility for the portion  
2490 of the project or service that is performed within the county, city, or town within which the  
2491 sales and use tax is imposed:

2492 (Aa) for a county legislative body that imposes the sales and use tax, if that airport  
2493 facility is part of the regional transportation plan of the area metropolitan planning organization  
2494 if a metropolitan planning organization exists for the area; or

2495 (Bb) for a city or town legislative body that imposes the sales and use tax, if:

2496 (Ii) that city or town owns or operates the airport facility; and

2497 (IIii) an airline is headquartered in that city or town; or

2498 (VI) deposited or expended for a combination of Subsections (1)(b)(ii)(C)(I) through  
2499 ~~[(V)]~~ (IV).

2500 (c) (i) Subject to the other provisions of this Subsection (1)(c), a city or town within  
2501 which a sales and use tax is imposed at the tax rate described in Subsection (1)(b)(ii) may:

2502 (A) expend the revenues in accordance with Subsection (1)(b)(ii); or

2503 (B) expend the revenues in accordance with Subsections (1)(c)(ii) through (iv) if:

2504 (I) that city or town owns or operates an airport facility; and

2505 (II) an airline is headquartered in that city or town.

2506 (ii) (A) ~~[If a city or town within which a tax is imposed at the tax rate described in~~  
2507 ~~Subsection (1)(b)(ii) owns or operates an airport facility at which an airline is headquartered,~~

2508 ~~the]~~ A city or town legislative body of a city or town within which a sales and use tax is

2509 imposed at the tax rate described in Subsection (1)(b)(ii) may expend the revenues collected

2510 from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of

2511 .25% for a purpose described in Subsection (1)(c)(ii)(B) if:

2512 (I) that city or town owns or operates an airport facility; and

2513 (II) an airline is headquartered in that city or town.

2514 (B) A city or town described in Subsection (1)(c)(ii)(A) may expend the revenues

2515 collected from a tax rate of greater than .10% but not to exceed the revenues collected from a

2516 tax rate of .25% for:

2517 ~~[(A)]~~ (I) a project or service relating to the airport facility; and

2518 ~~[(B)]~~ (II) the portion of the project or service that is performed within the city or town

2519 imposing the sales and use tax.

2520 (iii) If a city or town legislative body described in Subsection (1)(c)(ii)(A) determines

2521 to expend the revenues collected from a tax rate of greater than .10% but not to exceed the

2522 revenues collected from a tax rate of .25% for a project or service relating to an airport facility

2523 as allowed by Subsection (1)(c)(ii), any remaining revenues that are collected from the sales

2524 and use tax imposed at the tax rate described in Subsection (1)(b)(ii) that are not expended for

2525 the project or service relating to an airport facility as allowed by Subsection (1)(c)(ii) shall be

2526 expended as follows:

2527 (A) 75% of the remaining revenues shall be deposited as provided in Subsection ~~[(4)]~~

2528 ~~(3)~~(d) into the County of the Second Class State Highway Projects Fund created by Section

2529 72-2-121.2 and expended as provided in Section 72-2-121.2; and

2530 (B) 25% of the remaining revenues shall be deposited as provided in Subsection ~~[(4)]~~

2531 ~~(3)~~(d) into the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5

2532 and expended and distributed in accordance with Section 72-2-117.5.

2533 (iv) A city or town legislative body that expends the revenues collected from a sales

2534 and use tax imposed at the tax rate described in Subsection (1)(b)(ii) in accordance with

2535 Subsections (1)(c)(ii) and (iii):

2536 (A) shall, on or before the date the city or town legislative body provides the notice

2537 described in ~~[Subsection (7)(a)]~~ Section 59-12-2209 to the commission stating that the city or

2538 town will enact a sales and use tax under this ~~[part]~~ section:

2539 (I) determine the tax rate:

2540 (Aa) the collections from which the city or town legislative body will expend for a

2541 project or service relating to an airport facility as allowed by Subsection (1)(c)(ii); and

2542 (Bb) at a percentage that is greater than .10% but does not exceed .25%; and  
2543 (II) notify the commission in writing of the tax rate the city or town legislative body  
2544 determines in accordance with Subsection (1)(c)(iv)(A)(I);  
2545 (B) shall, on or before the April 1 immediately following the date the city or town  
2546 legislative body provides the notice described in Subsection (1)(c)(iv)(A) to the commission:  
2547 (I) determine the tax rate:  
2548 (Aa) the collections from which the city or town legislative body will expend for a  
2549 project or service relating to an airport facility as allowed by Subsection (1)(c)(ii); and  
2550 (Bb) at a percentage that is greater than .10% but does not exceed .25%; and  
2551 (II) notify the commission in writing of the tax rate the city or town legislative body  
2552 determines in accordance with Subsection (1)(c)(iv)(B)(I);  
2553 (C) shall, on or before April 1 of each year after the April 1 described in Subsection  
2554 (1)(c)(iv)(B):  
2555 (I) determine the tax rate:  
2556 (Aa) the collections from which the city or town legislative body will expend for a  
2557 project or service relating to an airport facility as allowed by Subsection (1)(c)(ii); and  
2558 (Bb) at a percentage that is greater than .10% but does not exceed .25%; and  
2559 (II) notify the commission in writing of the tax rate the city or town legislative body  
2560 determines in accordance with Subsection (1)(c)(iv)(C)(I); and  
2561 (D) may not change the tax rate the city or town legislative body determines in  
2562 accordance with Subsections (1)(c)(iv)(A) through (C) more frequently than as prescribed by  
2563 Subsections (1)(c)(iv)(A) through (C).  
2564 ~~[(d) If a county legislative body imposes a tax under this part, regardless of whether the~~  
2565 ~~tax under this part is imposed within all of the cities and towns within the county, the county~~  
2566 ~~legislative body may not impose a tax under Part 17, County Option Sales and Use Tax for~~  
2567 ~~Transportation Act.]~~  
2568 ~~[(e) For purposes of this Subsection (1), the location of a transaction shall be~~  
2569 ~~determined in accordance with Sections 59-12-211 through 59-12-215.]~~  
2570 ~~[(2) (a) A county, city, or town legislative body may not impose a tax under this part~~  
2571 ~~on:]~~  
2572 ~~[(f) the sales and uses described in Section 59-12-104 to the extent the sales and uses~~

2573 ~~are exempt from taxation under Section 59-12-104; or]~~

2574 ~~[(ii) except as provided in Subsection (2)(b), amounts paid or charged for food and~~  
 2575 ~~food ingredients.]~~

2576 ~~[(b) A county, city, or town legislative body imposing a tax under this part shall impose~~  
 2577 ~~the tax on amounts paid or charged for food and food ingredients if the food and food~~  
 2578 ~~ingredients are sold as part of a bundled transaction attributable to food and food ingredients~~  
 2579 ~~and tangible personal property other than food and food ingredients.]~~

2580 ~~[(3)(a) To impose a tax under this part, a county, city, or town legislative body shall~~  
 2581 ~~obtain approval from a majority of the members of the county, city, or town legislative body.]~~

2582 ~~[(b)]~~ (2) Before a city or town legislative body may impose a sales and use tax under  
 2583 this ~~[part]~~ section, the city or town legislative body shall provide a copy of the notice described  
 2584 in ~~[Subsection (7)(a)]~~ Section 59-12-2209 that the city or town legislative body provides to the  
 2585 commission:

2586 (i) to the county legislative body within which the city or town is located; and

2587 (ii) at the same time as the city or town legislative body provides the notice to the  
 2588 commission.

2589 ~~[(4)]~~ (3) (a) Subject to Subsections ~~[(4)]~~ (3)(b) through ~~[(f)]~~ (e) and ~~[except as provided~~  
 2590 ~~in Subsection (6)]~~ Section 59-12-2207, the commission shall transmit revenues collected  
 2591 within a county, city, or town from a tax under this part that will be expended for a purpose  
 2592 described in Subsection (1)(b)(i)(B) or Subsections (1)(b)(ii)(C)(II) through ~~[(v)]~~ (IV) ~~[: (f)]~~  
 2593 the county, city, or town legislative body~~[:]~~ in accordance with Section 59-12-2206.

2594 ~~[(ii) monthly; and]~~

2595 ~~[(iii) by electronic funds transfer.]~~

2596 ~~[(b) Except as provided in Subsection (6), the commission shall transfer the revenues~~  
 2597 ~~described in Subsection (4)(a) directly to a public transit district organized under Title 17B,~~  
 2598 ~~Chapter 2a, Part 8, Public Transit District Act, if the county, city, or town legislative body:]~~

2599 ~~[(i) provides written notice to the commission requesting the transfer; and]~~

2600 ~~[(ii) designates the public transit district to which the county, city, or town legislative~~  
 2601 ~~body requests the commission to transfer the revenues described in Subsection (4)(a).]~~

2602 ~~[(c)]~~ (b) Except as provided in Subsection ~~[(4)(d) or (6)]~~ (3)(c) and subject to Section  
 2603 59-12-2207, the commission shall deposit revenues collected within a county, city, or town

2604 from a sales and use tax under this ~~[part]~~ section that:

2605 (i) are required to be expended for a purpose described in Subsection (1)(b)(ii)(A) into  
2606 the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2;

2607 (ii) are required to be expended for a purpose described in Subsection (1)(b)(ii)(B) into  
2608 the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or

2609 (iii) a county, city, or town legislative body determines to expend for a purpose  
2610 described in Subsection (1)(b)(i)(A) or (1)(b)(ii)(C)(I) into the County of the Second Class  
2611 State Highway Projects Fund created by Section 72-2-121.2 if the county, city, or town  
2612 legislative body provides written notice to the commission requesting the deposit.

2613 ~~[(d)]~~ (c) Subject to Subsection ~~[(4)(c) or (f)]~~ (3)(d) or (e), if a city or town legislative  
2614 body provides notice to the commission in accordance with Subsection (1)(c)(iv), the  
2615 commission shall:

2616 (i) transmit the revenues collected from the tax rate stated on the notice to the city or  
2617 town legislative body~~[(A)]~~ monthly~~[-and-(B)]~~ by electronic funds transfer; and

2618 (ii) deposit any remaining revenues described in Subsection (1)(c)(iii) in accordance  
2619 with Subsection (1)(c)(iii).

2620 ~~[(e)]~~ (d) (i) If a city or town legislative body provides the notice described in  
2621 Subsection (1)(c)(iv)(A) to the commission, the commission shall transmit or deposit the  
2622 revenues collected from the sales and use tax:

2623 (A) in accordance with Subsection ~~[(4)(d)]~~ (3)(c);

2624 (B) beginning on the date the city or town legislative body enacts the sales and use tax;  
2625 and

2626 (C) ending on the earlier of:

2627 (I) the June 30 immediately following the date the city or town legislative body  
2628 provides the notice described in Subsection (1)(c)(iv)(B) to the commission; or

2629 (II) the date the city or town legislative body repeals the sales and use tax.

2630 (ii) If a city or town legislative body provides the notice described in Subsection  
2631 (1)(c)(iv)(B) or (C) to the commission, the commission shall transmit or deposit the revenues  
2632 collected from the sales and use tax:

2633 (A) in accordance with Subsection ~~[(4)(d)]~~ (3)(c);

2634 (B) beginning on the July 1 immediately following the date the city or town legislative

body provides the notice described in Subsection (1)(c)(iv)(B) or (C) to the commission; and  
 (C) ending on the earlier of:

(I) the June 30 of the year after the date the city or town legislative body provides the notice described in Subsection (1)(c)(iv)(B) or (C) to the commission; or

(II) the date the city or town legislative body repeals the sales and use tax.

~~[(f)]~~ (e) (i) If a city or town legislative body that is required to provide the notice described in Subsection (1)(c)(iv)(A) does not provide the notice described in Subsection (1)(c)(iv)(A) to the commission on or before the date required by Subsection (1)(c)(iv) for providing the notice, the commission shall transmit, transfer, or deposit the revenues collected from the sales and use tax within the city or town in accordance with Subsections ~~[(4)(a) through (c)]~~ (3)(a) and (b).

(ii) If a city or town legislative body that is required to provide the notice described in Subsection (1)(c)(iv)(B) or (C) does not provide the notice described in Subsection (1)(c)(iv)(B) or (C) to the commission on or before the date required by Subsection (1)(c)(iv) for providing the notice, the commission shall transmit or deposit the revenues collected from the sales and use tax within the city or town in accordance with:

(A) Subsection ~~[(4)(d)]~~ (3)(c); and

(B) the most recent notice the commission received from the city or town legislative body under Subsection (1)(c)(iv).

~~[(5)(a) Except as provided in Subsection (5)(b), the commission shall administer, collect, and enforce a tax under this part in accordance with:]~~

~~[(i) the same procedures used to administer, collect, and enforce the tax under:]~~

~~[(A) Part 1, Tax Collection; or]~~

~~[(B) Part 2, Local Sales and Use Tax Act; and]~~

~~[(ii) Chapter 1, General Taxation Policies.]~~

~~[(b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).]~~

~~[(6)(a) The commission may retain an amount of tax collected under this part of not to exceed the lesser of:]~~

~~[(i) 1.50%; or]~~

~~[(ii) an amount equal to the cost to the commission of administering this part.]~~

~~[(b) Any amount the commission retains under Subsection (6)(a) shall be:]~~

2666 ~~[(i) deposited into the Sales and Use Tax Administrative Fees Account; and]~~  
2667 ~~[(ii) used as provided in Subsection 59-12-206(2).]~~  
2668 ~~[(7)(a)(i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1,~~  
2669 ~~2009, a county, city, or town enacts or repeals a tax or changes the rate of a tax under this part,~~  
2670 ~~the enactment, repeal, or change shall take effect:]~~  
2671 ~~[(A) on the first day of a calendar quarter; and]~~  
2672 ~~[(B) after a 90-day period beginning on the date the commission receives notice~~  
2673 ~~meeting the requirements of Subsection (7)(a)(ii) from the county, city, or town.]~~  
2674 ~~[(ii) The notice described in Subsection (7)(a)(i)(B) shall state:]~~  
2675 ~~[(A) that the county, city, or town will enact, repeal, or change the rate of a tax under~~  
2676 ~~this part;]~~  
2677 ~~[(B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);]~~  
2678 ~~[(C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and]~~  
2679 ~~[(D) if the county, city, or town enacts the tax or changes the rate of the tax described~~  
2680 ~~in Subsection (7)(a)(ii)(A), the rate of the tax.]~~  
2681 ~~[(b)(i) If the billing period for a transaction begins before the effective date of the~~  
2682 ~~enactment of the tax or the tax rate increase under Subsection (1), the enactment of a tax or a~~  
2683 ~~tax rate increase shall take effect on the first day of the first billing period that begins after the~~  
2684 ~~effective date of the enactment of the tax or the tax rate increase.]~~  
2685 ~~[(ii) If the billing period for a transaction begins before the effective date of the repeal~~  
2686 ~~of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate~~  
2687 ~~decrease shall take effect on the first day of the last billing period that began before the~~  
2688 ~~effective date of the repeal of the tax or the tax rate decrease.]~~  
2689 ~~[(c)(i) If a tax due under this part on a catalogue sale is computed on the basis of sales~~  
2690 ~~and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax~~  
2691 ~~described in Subsection (7)(a)(i) takes effect:]~~  
2692 ~~[(A) on the first day of a calendar quarter; and]~~  
2693 ~~[(B) beginning 60 days after the effective date of the enactment, repeal, or change in~~  
2694 ~~the rate of the tax under Subsection (7)(a)(i).]~~  
2695 ~~[(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~  
2696 ~~the commission may by rule define the term "catalogue sale."]~~

2697 ~~[(d)(i) Except as provided in Subsection (7)(c) or (f), if, for an annexation that occurs~~  
2698 ~~on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the~~  
2699 ~~rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take~~  
2700 ~~effect:]~~

2701 ~~[(A) on the first day of a calendar quarter; and]~~

2702 ~~[(B) after a 90-day period beginning on the date the commission receives notice~~  
2703 ~~meeting the requirements of Subsection (7)(d)(ii) from the county, city, or town that annexes~~  
2704 ~~the annexing area:]~~

2705 ~~[(ii) The notice described in Subsection (7)(d)(i)(B) shall state:]~~

2706 ~~[(A) that the annexation described in Subsection (7)(d)(i)(B) will result in an~~  
2707 ~~enactment, repeal, or change in the rate of a tax under this part for the annexing area;]~~

2708 ~~[(B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);]~~

2709 ~~[(C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and]~~

2710 ~~[(D) if the county, city, or town enacts the tax or changes the rate of the tax described~~  
2711 ~~in Subsection (7)(d)(ii)(A), the rate of the tax:]~~

2712 ~~[(e)(i) If the billing period for a transaction begins before the effective date of the~~  
2713 ~~enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax~~  
2714 ~~rate increase shall take effect on the first day of the first billing period that begins after the~~  
2715 ~~effective date of the enactment of the tax or the tax rate increase:]~~

2716 ~~[(ii) If the billing period for a transaction begins before the effective date of the repeal~~  
2717 ~~of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate~~  
2718 ~~decrease shall take effect on the first day of the last billing period that began before the~~  
2719 ~~effective date of the repeal of the tax or the tax rate decrease:]~~

2720 ~~[(f)(i) If a tax due under this part on a catalogue sale is computed on the basis of sales~~  
2721 ~~and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax~~  
2722 ~~described in Subsection (7)(d)(i) takes effect:]~~

2723 ~~[(A) on the first day of a calendar quarter; and]~~

2724 ~~[(B) beginning 60 days after the effective date of the enactment, repeal, or change in~~  
2725 ~~the rate under Subsection (7)(d)(i):]~~

2726 ~~[(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~  
2727 ~~the commission may by rule define the term "catalogue sale."]~~

Section 26. Section **63B-11-501** is amended to read:

**63B-11-501. State Bonding Commission authorized to issue general obligation bonds.**

Upon receipt of a written opinion from the Utah Attorney General that Salt Lake County has entered a binding legal agreement with the state in which Salt Lake County agrees, until all of the principal, interest, and issuance costs on the bonds have been paid, to annually transfer enough of the [~~1/4 of 1/4% of sales tax proceeds earmarked by Section 59-12-502~~] amount described in Subsection 59-12-2214(3)(b) to the sinking fund created in Section 63B-11-508 to pay the principal, interest, and issuance costs for any general obligation bonds issued to provide funds for any of the Salt Lake County transportation projects identified in Section 63B-11-502, the commission created under Section 63B-1-201 may issue and sell general obligation bonds of the state pledging the full faith, credit, and resources of the state for the payment of the principal of and interest on the bonds, to provide funds to the Department of Transportation.

Section 27. Section **63B-11-502** is amended to read:

**63B-11-502. Maximum amount -- Projects authorized.**

(1) The total amount of bonds issued under this part may not exceed \$52,101,800.

(2) (a) (i) Proceeds from the issuance of bonds shall be provided to the Department of Transportation to provide funds to pay all or part of the costs of accelerating any of the following state highway construction or reconstruction projects in Salt Lake County:

(A) I-15: 10600 South to the Utah County line;

(B) Final Environmental Impact Statement for Western Transportation Corridor: I-80 to Utah County;

(C) I-215: Redwood Road to 4700 South;

(D) State Street Reconstruction: 9000 South to 10600 South; and

(E) except as provided in Subsection (2)(d), State Street Reconstruction: 7800 South to 8000 South.

(ii) If the Department of Transportation is unable to begin or complete a project authorized by this Subsection (2)(a) because of a court order, the Department of Transportation, with the approval of Salt Lake County, may expend bond proceeds to construct one or more projects identified in Subsection (2)(e).

(b) When the Utah Transit Authority certifies to the Transportation Commission that the Utah Transit Authority will pay half the costs of reconstruction of the Utah Transit Authority railroad overpass on 8000 South State Street, the Department of Transportation may provide funds from bond proceeds to pay the other half of the costs of reconstruction of the Utah Transit Authority railroad overpass on 8000 South.

(c) As used in Subsections (2)(a) and (b), "costs" may include the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and making all improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, interest estimated to accrue on any bond anticipation notes issued under the authority of Chapter 11, Part 6, 2002 Highway General Obligation Bond Anticipation Notes for Salt Lake County, and all related engineering, architectural, and legal fees.

(d) Bond proceeds may not be expended on the State Street Reconstruction: 7800 to 8000 South project until the Transportation Commission has received the certification required by Subsection (2)(b) from the Utah Transit Authority.

(e) As the following projects or future projects identified by Salt Lake County and the Legislature are prepared and ready for construction by the Department of Transportation, it is the intent of the Legislature that they will be accelerated and funded from future general obligation bonds issued in anticipation of receiving debt service funds from ~~[Salt Lake County's 1/4 of 1/4% sales tax proceeds earmarked by Section 59-12-502]~~ the amount described in Subsection 59-12-2214(3)(b) and from other funding sources available to the Department of Transportation, including monies available from the Centennial Highway Fund and the Statewide Transportation Improvement Plan: 5600 West Reconstruction: 4500 South to 7000 South; Redwood Road: 12600 South to Bangerter Highway; I-15: Beck Street Overpass; I-215: 4700 South to SR-201; acquisition of rights-of-way for the Western Transportation Corridor; 11400 South: I-15 to Redwood Road; and State Street Reconstruction 6400 South to 7800 South and 8000 South to 9000 South.

(3) If any portion of the proceeds of the tax paid to the state are not required to pay principal, interest, and issuance costs of the bonds and the principal, interest, and issuance costs of the bond have been paid off, or if, after completion of the projects authorized under

Subsection (2)(a) and payment of the costs of issuing and selling the bonds under Section 63B-11-503, any bond proceeds remain unexpended, the Department of Transportation may use those unexpended proceeds to pay all or part of the costs of construction projects in Salt Lake County that have been approved and prioritized by the Transportation Commission.

(4) The commission, by resolution, or the state treasurer may make any statement of intent relating to a reimbursement that is necessary or desirable to comply with federal tax law.

(5) The Department of Transportation may enter into agreements related to the projects before the receipt of proceeds of bonds issued under this chapter.

Section 28. Section **72-2-117.5** is amended to read:

**72-2-117.5. Local Transportation Corridor Preservation Fund -- Distribution.**

(1) As used in this section:

(a) "Council of governments" means a decision-making body in each county composed of the county governing body and the mayors of each municipality in the county.

(b) "Metropolitan planning organization" has the same meaning as defined in Section 72-1-208.5.

(2) There is created the Local Transportation Corridor Preservation Fund within the Transportation Fund.

(3) The fund shall be funded from the following sources:

(a) a local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222;

(b) appropriations made to the fund by the Legislature;

(c) contributions from other public and private sources for deposit into the fund;

(d) all monies collected from rents and sales of real property acquired with fund monies;

(e) proceeds from general obligation bonds, revenue bonds, or other obligations issued as authorized by Title 63B, Bonds;

(f) the portion of the sales and use tax described in Subsection [~~59-12-1703(4)(a)(ii)~~] 59-12-2217(2)(b) and required by Subsection [~~59-12-1703(7)(b)(i)~~] 59-12-2217(8)(a) to be deposited into the fund; and

(g) sales and use tax revenues deposited into the fund in accordance with Section [~~59-12-1903~~] 59-12-2218.

2821 (4) (a) The fund shall earn interest.

2822 (b) All interest earned on fund monies shall be deposited into the fund.

2823 (c) All monies appropriated to the Local Transportation Corridor Preservation Fund are  
2824 nonlapsing.

2825 (d) The State Tax Commission shall provide the department with sufficient data for the  
2826 department to allocate the revenues:

2827 (i) provided under Subsection (3)(a) to each county imposing a local option highway  
2828 construction and transportation corridor preservation fee under Section 41-1a-1222;

2829 (ii) provided under Subsection [~~59-12-1703(4)(a)(ii)~~] 59-12-2217(2)(b) to each county  
2830 imposing a county option sales and use tax for transportation; and

2831 (iii) provided under Subsection (3) (g) to each county of the second class or city or  
2832 town within a county of the second class that imposes the sales and use tax authorized by  
2833 Section [~~59-12-1903~~] 59-12-2218.

2834 (e) (i) The department shall annually allocate the interest earned on fund monies to  
2835 each county based on the proportionate amount of interest earned on each county's allocation of  
2836 funds under Subsection (4)(d) on an average monthly balance basis.

2837 (ii) The initial annual allocation of fund interest shall include all interest earned on  
2838 fund monies since the creation of the fund.

2839 (f) The monies allocated under Subsection (4)(d):

2840 (i) shall be used for the purposes provided in this section for each county, city, or town;  
2841 and

2842 (ii) are allocated to each county, city or town as provided in this section:

2843 (A) with the condition that the state will not be charged for any asset purchased with  
2844 the monies allocated under Subsections (4)(d) and (e); and

2845 (B) are considered a local matching contribution for the purposes described under  
2846 Section 72-2-123 if used on a state highway.

2847 (g) Administrative costs of the department to implement this section shall be paid from  
2848 the fund.

2849 (5) (a) The department shall authorize the expenditure of fund monies to allow a  
2850 highway authority to acquire real property or any interests in real property for state, county, and  
2851 municipal highway corridors subject to:

2852 (i) monies available in the fund to each county under Subsections (4)(d) and (e); and  
2853 (ii) the provisions of this section.

2854 (b) Fund monies may be used to pay interest on debts incurred in accordance with this  
2855 section.

2856 (c) (i) (A) Fund monies may be used to pay maintenance costs of properties acquired  
2857 under this section but limited to a total of 5% of the purchase price of the property.

2858 (B) Any additional maintenance cost shall be paid from funds other than under this  
2859 section.

2860 (C) Revenue generated by any property acquired under this section is excluded from  
2861 the limitations under this Subsection (5)(c)(i).

2862 (ii) Fund monies may be used to pay direct costs of acquisition of properties acquired  
2863 under this section.

2864 (d) Fund monies allocated under Subsections (4)(d) and (e) may be used by a county  
2865 highway authority for countywide transportation planning if:

2866 (i) the county is not included in a metropolitan planning organization;

2867 (ii) the transportation planning is part of the county's continuing, cooperative, and  
2868 comprehensive process for transportation planning, corridor preservation, right-of-way  
2869 acquisition, and project programming;

2870 (iii) no more than four years allocation every 20 years to each county is used for  
2871 transportation planning under this Subsection (5)(d); and

2872 (iv) the county otherwise qualifies to use the fund monies as provided under this  
2873 section.

2874 (e) (i) Subject to Subsection (11), fund monies allocated under Subsections (4)(d) and  
2875 (e) may be used by a county highway authority for transportation corridor planning that is part  
2876 of the corridor elements of an ongoing work program of transportation projects.

2877 (ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the  
2878 direction of:

2879 (A) the metropolitan planning organization if the county is within the boundaries of a  
2880 metropolitan planning organization; or

2881 (B) the department if the county is not within the boundaries of a metropolitan  
2882 planning organization.

(6) (a) (i) The Local Transportation Corridor Preservation Fund shall be used to preserve highway corridors, promote long-term statewide transportation planning, save on acquisition costs, and promote the best interests of the state in a manner which minimizes impact on prime agricultural land.

(ii) The Local Transportation Corridor Preservation Fund shall only be used to preserve a highway corridor that is right-of-way:

(A) in a county of the first or second class for a:

(I) state highway;

(II) a principal arterial highway as defined in Section 72-4-102.5;

(III) a minor arterial highway as defined in Section 72-4-102.5; or

(IV) a collector highway in an urban area as defined in Section 72-4-102.5; or

(B) in a county of the third, fourth, fifth, or sixth class for a:

(I) state highway;

(II) a principal arterial highway as defined in Section 72-4-102.5;

(III) a minor arterial highway as defined in Section 72-4-102.5;

(IV) a major collector highway as defined in Section 72-4-102.5; or

(V) a minor collector road as defined in Section 72-4-102.5.

(iii) The Local Transportation Corridor Preservation Fund may not be used for a highway corridor that is primarily a recreational trail as defined under Section 79-5-102.

(b) (i) The department shall develop and implement a program to educate highway authorities on the objectives, application process, use, and responsibilities of the Local Transportation Corridor Preservation Fund as provided under this section to promote the most efficient and effective use of fund monies including priority use on designated high priority corridor preservation projects.

(ii) The department shall develop a model transportation corridor property acquisition policy or ordinance that meets federal requirements for the benefit of a highway authority to acquire real property or any interests in real property under this section.

(c) The department shall authorize the expenditure of fund monies after determining that the expenditure is being made in accordance with this section from applications that are:

(i) made by a highway authority;

(ii) endorsed by the council of governments; and

2914 (iii) for a right-of-way purchase for a highway authorized under Subsection (6)(a)(ii).  
2915 (7) (a) (i) A council of governments shall establish a council of governments  
2916 endorsement process which includes prioritization and application procedures for use of the  
2917 monies allocated to each county under this section.

2918 (ii) The endorsement process under Subsection (7)(a)(i) may include review or  
2919 endorsement of the preservation project by the:

2920 (A) metropolitan planning organization if the county is within the boundaries of a  
2921 metropolitan planning organization; or

2922 (B) the department if the county is not within the boundaries of a metropolitan  
2923 planning organization.

2924 (b) All fund monies shall be prioritized by each highway authority and council of  
2925 governments based on considerations, including:

2926 (i) areas with rapidly expanding population;

2927 (ii) the willingness of local governments to complete studies and impact statements  
2928 that meet department standards;

2929 (iii) the preservation of corridors by the use of local planning and zoning processes;

2930 (iv) the availability of other public and private matching funds for a project;

2931 (v) the cost-effectiveness of the preservation projects;

2932 (vi) long and short-term maintenance costs for property acquired; and

2933 (vii) whether the transportation corridor is included as part of:

2934 (A) the county and municipal master plan; and

2935 (B) (I) the statewide long range plan; or

2936 (II) the regional transportation plan of the area metropolitan planning organization if  
2937 one exists for the area.

2938 (c) The council of governments shall:

2939 (i) establish a priority list of highway corridor preservation projects within the county;

2940 (ii) submit the list described in Subsection (7)(c)(i) to the county's legislative body for  
2941 approval; and

2942 (iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the  
2943 members of the county legislative body.

2944 (d) A county's council of governments may only submit one priority list described in

2945 Subsection (7)(c)(i) per calendar year.

2946 (e) A county legislative body may only consider and approve one priority list described  
2947 in Subsection (7)(c)(i) per calendar year.

2948 (8) (a) Unless otherwise provided by written agreement with another highway  
2949 authority, the highway authority that holds the deed to the property is responsible for  
2950 maintenance of the property.

2951 (b) The transfer of ownership for property acquired under this section from one  
2952 highway authority to another shall include a recorded deed for the property and a written  
2953 agreement between the highway authorities.

2954 (9) (a) The proceeds from any bonds or other obligations secured by revenues of the  
2955 Local Transportation Corridor Preservation Fund shall be used for the purposes authorized for  
2956 funds under this section.

2957 (b) The highway authority shall pledge the necessary part of the revenues of the Local  
2958 Transportation Corridor Preservation Fund to the payment of principal and interest on the  
2959 bonds or other obligations.

2960 (10) (a) A highway authority may not apply for monies under this section to purchase a  
2961 right-of-way for a state highway unless the highway authority has:

2962 (i) a transportation corridor property acquisition policy or ordinance in effect that  
2963 meets federal requirements for the acquisition of real property or any interests in real property  
2964 under this section; and

2965 (ii) an access management policy or ordinance in effect that meets the requirements  
2966 under Subsection 72-2-117(9).

2967 (b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a  
2968 written agreement with the department for the acquisition of real property or any interests in  
2969 real property under this section.

2970 (11) (a) The department shall, in expending or authorizing the expenditure of fund  
2971 monies, ensure to the extent possible that the fund monies allocated to a city or town in  
2972 accordance with Subsection (4) are expended:

2973 (i) to fund a project or service as allowed by this section within the city or town to  
2974 which the fund monies are allocated;

2975 (ii) to pay debt service, principal, or interest on a bond or other obligation as allowed

2976 by this section if that bond or other obligation is:

2977 (A) secured by monies allocated to the city or town; and

2978 (B) issued to finance a project or service as allowed by this section within the city or  
2979 town to which the fund monies are allocated;

2980 (iii) to fund transportation planning as allowed by this section within the city or town  
2981 to which the fund monies are allocated; or

2982 (iv) for another purpose allowed by this section within the city or town to which the  
2983 fund monies are allocated.

2984 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2985 department may make rules to implement the requirements of Subsection (11)(a).

2986 Section 29. Section **72-2-121** is amended to read:

2987 **72-2-121. County of the First Class State Highway Projects Fund.**

2988 (1) There is created a special revenue fund entitled the County of the First Class State  
2989 Highway Projects Fund.

2990 (2) The fund consists of monies generated from the following revenue sources:

2991 (a) any voluntary contributions received for new construction, major renovations, and  
2992 improvements to state highways within a county of the first class;

2993 (b) the portion of the sales and use tax described in Subsection [~~59-12-502(5)(a)~~]  
2994 59-12-2214(3)(a) deposited in or transferred to the fund;

2995 (c) the portion of the sales and use tax described in Subsection [~~59-12-1703(4)(a)(ii)~~]  
2996 59-12-2217(2)(b) and required by Subsection [~~59-12-1703(7)(b)(ii)~~] 59-12-2217(8)(b) to be  
2997 deposited in or transferred to the fund; and

2998 (d) a portion of the local option highway construction and transportation corridor  
2999 preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited in or  
3000 transferred to the fund.

3001 (3) (a) The fund shall earn interest.

3002 (b) All interest earned on fund monies shall be deposited into the fund.

3003 (4) The executive director shall use fund monies only:

3004 (a) to pay debt service and bond issuance costs for bonds issued under Sections  
3005 63B-16-102 and 63B-18-402;

3006 (b) for right-of-way acquisition, new construction, major renovations, and

3007 improvements to state highways within a county of the first class and to pay any debt service  
3008 and bond issuance costs related to those projects;

3009 (c) for fiscal year 2008-09 only, to pay for or to provide funds to a municipality or  
3010 county to pay for right-of-way acquisition, construction, reconstruction, renovations, and  
3011 improvements to highways described in Subsection 63B-16-102(3); and

3012 (d) for fiscal year 2009-10 only, to pay for or to provide funds to a municipality or  
3013 county to pay for right-of-way acquisition, construction, reconstruction, renovations, and  
3014 improvements to highways described in Subsection 63B-18-402(2).

3015 (5) (a) For fiscal years beginning with fiscal year 2010-11 and ending with fiscal year  
3016 2012-13, the executive director shall use at least 20% of fund monies available that are not  
3017 required to pay principal, interest, and issuance costs of bonds issued under Sections  
3018 63B-16-102 and 63B-18-402 to pay for:

3019 (i) east-west transportation route improvements in a county of the first class; and

3020 (ii) state highway capacity improvement and congestion mitigation projects in a county  
3021 of the first class.

3022 (b) For a fiscal year beginning on or after July 1, 2013, the executive director shall use  
3023 at least 25% of fund monies available that are not required to pay principal, interest, and  
3024 issuance costs of bonds issued under Sections 63B-16-102 and 63B-18-402 to pay for:

3025 (i) east-west transportation route improvements in a county of the first class; and

3026 (ii) state highway capacity improvement and congestion mitigation projects in a county  
3027 of the first class.

3028 (6) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the  
3029 fund and bond proceeds from bonds issued under Sections 63B-16-102 and 63B-18-402 are  
3030 considered a local matching contribution for the purposes described under Section 72-2-123.

3031 (7) The additional administrative costs of the department to administer this fund shall  
3032 be paid from the monies in the fund.

3033 Section 30. Section **72-2-121.1** is amended to read:

3034 **72-2-121.1. Highway Projects Within Counties Fund -- Accounting for revenues**  
3035 **-- Interest -- Expenditure of revenues.**

3036 (1) There is created a special revenue fund known as the Highway Projects Within  
3037 Counties Fund.

3038 (2) The Highway Projects Within Counties Fund shall be funded by revenues generated  
3039 by a tax imposed by a county under [~~Title 59, Chapter 12, Part 15, County Option Sales and~~  
3040 ~~Use Tax for Highways, Fixed Guideways, or Systems for Public Transit Act~~] Section  
3041 59-12-2216, if those revenues are allocated:

3042 (a) for a purpose described in Subsection [~~59-12-1503(2)(a)(iii)~~] 59-12-2216(2)(c); and  
3043 (b) in accordance with Section [~~59-12-1503~~] 59-12-2216.

3044 (3) The department shall make a separate accounting for:

3045 (a) the revenues described in Subsection (2); and

3046 (b) each county for which revenues are deposited into the Highway Projects Within  
3047 Counties Fund.

3048 (4) (a) The Highway Projects Within Counties Fund shall earn interest.

3049 (b) The department shall allocate the interest earned on the State Highway Projects  
3050 Within Counties Fund:

3051 (i) proportionately;

3052 (ii) to each county's balance in the Highway Projects Within Counties Fund; and

3053 (iii) on the basis of each county's balance in the Highway Projects Within Counties  
3054 Fund.

3055 (5) (a) The department shall expend the revenues and interest deposited into the  
3056 Highway Projects Within Counties Fund to pay:

3057 (i) for a state highway project within the county:

3058 (A) described in Subsection [~~59-12-1503(2)(a)(iii)(A)~~] 59-12-2216(2)(c)(i); and

3059 (B) for which the requirements of Subsection [~~59-12-1503(5)~~] 59-12-2216(6) are met;

3060 (ii) debt service on a project described in Subsection (5)(a)(i)(A); or

3061 (iii) bond issuance costs [~~relating~~] related to a project described in Subsection  
3062 (5)(a)(i)(A).

3063 (b) (i) If a county legislative body submits a request to the department in writing, the  
3064 department shall transfer revenues and interest deposited into the Highway Projects Within  
3065 Counties Fund to the county legislative body to pay:

3066 (A) for a [~~local highway of regional significance~~] project described in Subsection  
3067 [~~59-12-1503(2)(a)(iii)(A)~~] 59-12-2216(2)(d);

3068 (B) debt service on a project described in Subsection (5)(b)(i)(A); or

3069 (C) bond issuance costs [~~relating~~] related to a project described in Subsection  
3070 (5)(b)(i)(A).

3071 (ii) The request submitted under Subsection (5)(b)(i) shall specify:

3072 (A) the amount of revenues requested for transfer; and

3073 (B) the [~~local highway of regional significance~~] project described in Subsection  
3074 59-12-2216(2)(d) that the funds requested under this Subsection (5)(b) will be expended on.

3075 Section 31. Section **72-2-121.2** is amended to read:

3076 **72-2-121.2. County of the Second Class State Highway Projects Fund -- Use of**  
3077 **fund monies.**

3078 (1) As used in this section, "fund" means the County of the Second Class State  
3079 Highway Projects Fund created by this section.

3080 (2) There is created within the Transportation Fund a special revenue fund known as  
3081 the County of the Second Class State Highway Projects Fund.

3082 (3) The fund shall be funded by monies collected from:

3083 (a) any voluntary contributions the department receives for new construction, major  
3084 renovations, and improvements to state highways within a county of the second class; and

3085 (b) sales and use taxes deposited into the fund in accordance with Section  
3086 [~~59-12-1903~~] 59-12-2218.

3087 (4) The department shall make a separate accounting for:

3088 (a) the revenues described in Subsection (3); and

3089 (b) each county of the second class or city or town within a county of the second class  
3090 for which revenues are deposited into the fund.

3091 (5) (a) The fund shall earn interest.

3092 (b) Interest earned on fund monies shall be deposited into the fund.

3093 (6) Subject to Subsection (9), the executive director may use fund monies only:

3094 (a) for right-of-way acquisition, new construction, major renovations, and  
3095 improvements to state highways within a county of the second class or a city or town within a  
3096 county of the second class in an amount that does not exceed the amounts deposited for or  
3097 allocated to that county of the second class or city or town within a county of the second class  
3098 in accordance with this section;

3099 (b) to pay any debt service and bond issuance costs related to a purpose described in

3100 Subsection (6)(a) in an amount that does not exceed the amounts deposited for or allocated to  
3101 that county of the second class or city or town within a county of the second class described in  
3102 Subsection (6)(a) in accordance with this section; and  
3103 (c) to pay the costs of the department to administer the fund in an amount not to exceed  
3104 interest earned by the fund monies.  
3105 (7) If interest remains in the fund after the executive director pays the costs of the  
3106 department to administer the fund, the interest shall be:  
3107 (a) allocated to each county of the second class or city or town within a county of the  
3108 second class for which revenues are deposited into the fund in proportion to the deposits made  
3109 into the fund for that county of the second class or city or town within a county of the second  
3110 class; and  
3111 (b) expended for the purposes described in Subsection (6).  
3112 (8) Revenues described in Subsection (3)(b) that are deposited into the fund are  
3113 considered to be a local matching contribution for the purposes described in Section 72-2-123.  
3114 (9) (a) The executive director shall, in using fund monies, ensure to the extent possible  
3115 that the fund monies deposited for or allocated to a city or town are used:  
3116 (i) for a purpose described in Subsection (6)(a) within the city or town to which the  
3117 fund monies are allocated;  
3118 (ii) to pay debt service and bond issuance costs described in Subsection (6)(b) if the  
3119 debt service and bond issuance costs are:  
3120 (A) secured by monies deposited for or allocated to the city or town; and  
3121 (B) related to a project described in Subsection (6)(a) within the city or town to which  
3122 the fund monies are allocated; or  
3123 (iii) for a purpose described in Subsection (6)(c).  
3124 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3125 department may make rules to implement the requirements of Subsection (9)(a).  
3126 Section 32. Section **72-10-215** is amended to read:  
3127 **72-10-215. Restrictions on use of airport revenue to finance a fixed guideway.**  
3128 An airport operator may not use airport revenue to contribute to the cost of  
3129 constructing, equipping, maintaining, or operating any portion of a fixed guideway as defined  
3130 in Section [~~59-12-1702~~] 59-12-102.

3131 Section 33. **Repealer.**  
3132 This bill repeals:  
3133 Section **59-12-501, Public transit tax -- Base -- Rate -- Voter approval.**  
3134 Section **59-12-502, Additional public transit tax for a fixed guideway, expanded**  
3135 **public transportation system, airport facility, or to be deposited into the County of the**  
3136 **First Class State Highway Projects Fund -- Base -- Rate -- Voter approval -- Exception to**  
3137 **voter approval requirement.**  
3138 Section **59-12-503, Public transit taxes -- Local option direct transfer.**  
3139 Section **59-12-504, Enactment or repeal of tax -- Effective date -- Notice**  
3140 **requirements -- Administration, collection, and enforcement of tax.**  
3141 Section **59-12-506, Seller or certified service provider reliance on commission**  
3142 **information.**  
3143 Section **59-12-507, Certified service provider or model 2 seller reliance on**  
3144 **commission certified software.**  
3145 Section **59-12-508, Purchaser relief from liability.**  
3146 Section **59-12-1001, Authority to impose tax for highways or to fund a system for**  
3147 **public transit -- Base -- Rate -- Ordinance requirements -- Voter approval requirements**  
3148 **-- Election requirements -- Notice of election requirements -- Exceptions to voter**  
3149 **approval requirements -- Enactment or repeal of tax -- Effective date -- Notice**  
3150 **requirements.**  
3151 Section **59-12-1002, Collection of taxes by commission -- Administration,**  
3152 **collection, and enforcement of tax -- Charge for service.**  
3153 Section **59-12-1004, Seller or certified service provider reliance on commission**  
3154 **information.**  
3155 Section **59-12-1005, Certified service provider or model 2 seller reliance on**  
3156 **commission certified software.**  
3157 Section **59-12-1006, Purchaser relief from liability.**  
3158 Section **59-12-1501, Title.**  
3159 Section **59-12-1502, Definitions.**  
3160 Section **59-12-1503, Opinion question election -- Base -- Rate -- Imposition of tax --**  
3161 **Use of tax revenues -- Administration, collection, and enforcement of tax by commission**

3162 -- **Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**  
3163       Section **59-12-1505, Seller or certified service provider reliance on commission**  
3164 **information.**  
3165       Section **59-12-1506, Certified service provider or model 2 seller reliance on**  
3166 **commission certified software.**  
3167       Section **59-12-1507, Purchaser relief from liability.**  
3168       Section **59-12-1701, Title.**  
3169       Section **59-12-1702, Definitions.**  
3170       Section **59-12-1703, Opinion question election -- Base -- Rate -- Imposition of tax --**  
3171 **Use of tax revenues -- Administration, collection, and enforcement of tax by commission**  
3172 **-- Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**  
3173       Section **59-12-1704, Written project prioritization process for new transportation**  
3174 **capacity projects.**  
3175       Section **59-12-1705, Project selection using the written prioritization process --**  
3176 **Report.**  
3177       Section **59-12-1706, Seller or certified service provider reliance on commission**  
3178 **information.**  
3179       Section **59-12-1707, Certified service provider or model 2 seller reliance on**  
3180 **commission certified software.**  
3181       Section **59-12-1708, Purchaser relief from liability.**  
3182       Section **59-12-1901, Title.**  
3183       Section **59-12-1902, Definitions.**  
3184       Section **59-12-1904, Seller or certified service provider reliance on commission**  
3185 **information.**  
3186       Section **59-12-1905, Certified service provider or model 2 seller reliance on**  
3187 **commission certified software.**  
3188       Section **59-12-1906, Purchaser relief from liability.**  
3189       Section 34. **Effective date.**  
3190       This bill takes effect on July 1, 2010.